



TOWN OF MAGNOLIA
ZONING ORDINANCE



ROCK COUNTY WISCONSIN

ADOPTION OF REVISED ZONING ORDINANCE
TOWN OF MAGNOLIA

The Town Board of the Town of Magnolia, Rock County, Wisconsin, does hereby revise its zoning ordinance, originally adopted July 26, 1977 and originally effective July 26, 1977 in the form attached hereto.

Date of Vote: October 9, 2018

Date of Posting: October 17, 2018

Effective Date: October 17, 2018

Kurt Bartlett

Kurt Bartlett, Chairman

Ron Sloniker

Ron Sloniker, 1st Supervisor

Dave Olsen

Dave Olsen, 2nd Supervisor

Countersigned:

Graceann Toberman

Graceann Toberman, Clerk/Treasurer

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Town of Magnolia Zoning Ordinance

The Town Board of the Town of Magnolia does ordain the following Ordinance is created as a comprehensive revision of the land use zoning policy for the Town of Magnolia:

SECTION 1.0 INTRODUCTION

1.1 AUTHORITY

The Town Board of Magnolia, Wisconsin has heretofore been directed, at an annual town meeting of qualified electors to exercise all powers relating to and conferred upon villages, and whereas these regulations are adopted under the authority granted by Sections 60.62 [Zoning Authority if Exercising Village Powers], 61.35 [Village Planning], 62.23 [City Planning] and Chapter 91 Subchapter V [Soil and Water Conservation] of the Wisconsin State Statutes.

1.2 PURPOSE

The purpose of this Ordinance is to promote the comfort, health, safety, morals, prosperity, aesthetics, and general welfare of this community. Furthermore, the purpose of this Ordinance is to implement the goals, objectives, policies, and map resulting from the Town's comprehensive planning process in preparing the adopted Town of Magnolia Land Use, Agricultural and Transportation Plan and be consistent with the adopted Rock County Agricultural Preservation Plan.

1.3 INTENT

It is the general intent of this Ordinance to regulate and restrict the use of all lands and waters; preserve productive and historic agricultural soils; regulate and restrict lot coverage, number of stories and size of buildings and other structures, population distribution and density, and to stabilize and protect property values; further the appropriate use of land and conservation of natural resources; preserve and promote the beauty of the community; and implement the land use plan. It is further intended to provide for the administration and enforcement of this Ordinance and to provide penalties for its violation.

1.4 ABROGATION AND GREATER RESTRICTIONS

It is not intended by this Ordinance to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, or permits previously adopted

or issued pursuant to law. However, wherever this Ordinance imposes greater restrictions, the provisions of this Ordinance shall govern.

1.5 INTERPRETATION

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Town and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

1.6 SEVERABILITY

- A. If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.
- B. If any application of this Ordinance to a particular structure, land or water is adjudged unconstitutional or invalid by a court of competent jurisdiction such judgment shall not be applicable to any other structure, land or water not specifically included in said judgment.

1.7 REPEAL

The Town Board hereby repeals without limitation all other ordinances, maps, or parts of ordinances of the Town inconsistent or conflicting with this Ordinance, to the extent of the inconsistency only, including without limitation a certain zoning ordinance originally dated July 26, 1977, the Official Zoning (District) Map, and any amendments to said zoning ordinance and zoning map that is a part of that ordinance originally dated July 26, 1977.

1.8 TITLE

This Ordinance shall be known as, referred to, or cited as the Town of Magnolia Zoning Ordinance.

1.9 EFFECTIVE DATE

This Ordinance shall be effective after a public hearing, adoption by the Town Board, and posting as provided by law. Changes or Amendments to the text of this ordinance or the "Official Zoning Map" shall be effective after the provisions of Section 12 have been complied with and the Change or Amendment has been posted as provided by law.

SECTION 2.0 GENERAL PROVISIONS

2.1 JURISDICTION

The jurisdiction of this Ordinance shall include all lands and waters within the Town.

2.2 COMPLIANCE

No land or water shall hereafter be used without full compliance with the provisions of this Ordinance and all other applicable local, county and state regulations.

2.3 USE RESTRICTIONS

The following use restrictions and regulations shall apply:

- A. **Permitted Uses**. Only those principal uses specified, their essential services, and uses listed in subsections (B) through (E) of this Section shall be permitted in each district.
- B. **Accessory Uses** and structures are permitted in any district but not until the principal structure is present or under construction. Residential accessory uses shall not involve the conduct of any business, trade, or industry unless a conditional use is authorized under this ordinance.
- C. **Conditional Uses** and their accessory uses are considered as special uses requiring review, public hearing, and recommendation to the Town Board by the Planning & Zoning Commission and issuance of a conditional use permit by the Town Board in accordance with Section 5 of this Ordinance.
- D. **Unclassified or Unspecified Uses** may be considered and utilized as a permitted or conditional use as determined by the Town Board after review and recommendation by the Planning & Zoning Commission provided that such uses are similar in character and impact to the principal uses permitted in the district. Not allowed in Exclusive Agricultural District One. Only those uses specified as permitted or conditional are allowed in the Exclusive Agricultural District.
- E. **Temporary Uses**, such as real estate sales field offices or shelters for materials and equipment being used in the construction of a permanent structure, may be permitted by Town Board after review and recommendation by the Planning & Zoning Commission for a period not to exceed one (1) Year.

- F. **Performance Standards** listed in this Ordinance shall be complied with by all uses in all districts.

2.4 PENALTIES

Any person, firm or corporation who fails to comply with, or violates, the provisions of this Ordinance shall, upon conviction thereof, forfeit not less than \$250 nor more than \$5000 and the costs of prosecution for each violation. Each day a violation exists or continues shall constitute a separate offense.

2.5 VIOLATIONS

It shall be unlawful to construct or use any structure, land, or water in violation of any of the provisions of this Ordinance. In case of any violation, the Town Board, the Zoning Administrator/Building Inspector, the Town & Zoning Commission, or any neighboring property owner who would be specifically damaged by such violation may institute appropriate action or proceeding to enjoin a violation of this Ordinance or cause a structure to be vacated or removed.

2.6 CIVIL ENFORCEMENT

Appropriate actions and proceedings may be taken at Law or in equity to prevent any violation of these regulations, to prevent unlawful construction, to recover damages, to restrain, correct, or abate a violation, to prevent illegal occupancy of a building, structure or premises, and these remedies shall be in addition to the Penalties described in Section 2.4.

SECTION 3.0 TOWN PLANNING AND ZONING COMMISSION

3.1 ESTABLISHMENT OF COMMISSION

There is hereby established a Planning & Zoning Commission for the Town (hereafter called the Commission).

3.2 HOW CONSTITUTED

The Commission shall consist of five (5) members and an alternate. One member may be a Town Board member and the Town Chair shall appoint the Commission Chair. The Town Board shall appoint five (5) members, who upon creation of the Commission shall be appointed for one (1), two (2) and two (2) members for three (3) year terms. The Zoning Administrator/Building Inspector shall be an ex-officio member and shall attend Planning & Zoning Commission meetings but not as voting member.

3.3 TERMS OF OFFICE

Terms of office for the citizen members shall start the 1st day of May. Terms of office for a Town Board member and chair shall be annual appointments.

3.4 QUALIFICATIONS

All members shall be persons with recognized experience, qualifications, have Town residency, and shall hold office until their respective successors are selected and qualified.

- A. Conflict of Interest; no member of the Planning and Zoning Commission may:
1. Take any official action substantially affecting a matter in which the official, a member of his or her immediate family, or an organization with which the official is associated has a financial interest.
 2. Use his or her position in a way that produces or assists in the production of a substantial benefit, direct or indirect, for the official, one or more members of the official's immediate family either separately or together, of an organization with which the official is associated.

3.5 TOWN ZONING ADMINISTRATOR/BUILDING INSPECTOR

- A. There is herewith created the position of Town Zoning Administrator/Building Inspector, said position may be a full-time or part-time, as the Town Board in its discretion shall determine. The Zoning Administrator/Building Inspector shall be appointed by the Town Board and shall hold office until replaced by the Town Board. His/her duties shall be to administer, supervise, and enforce the provisions of the Town Zoning Ordinance. The Town Board shall determine his/her compensation.
- B. The duties of the Zoning Administrator/Building Inspector shall be to investigate of all complaints, give notice of violations, and enforce this Ordinance. The Zoning Administrator/Building inspector may enter, at any reasonable time as permitted by the property owner, onto any public or private lands or waters to make inspection. If the Zoning Administrator/Building Inspector is refused entry, a special inspection warrant shall be issued for said premises pursuant to Sections 66.122 [Special Inspection Warrants] and 66.123 [Special Inspection Warrant Forms], of the Wisconsin Statutes. The Zoning Administrator/Building Inspector may set time limits and conditions for the correction of violations.
- C. The Zoning Administrator/Building Inspector shall make a monthly report of his/her activities to the Planning & Zoning Commission and the Town Board.
- D. The Zoning Administrator/Building Inspector shall prepare building permit forms; assist the applicant in preparing his/her application; advise the applicant as to the provisions of the Town Zoning Ordinance; inspect each project for which a permit has been applied for or granted; report violations; and provide this information to the Planning & Zoning Commission. The Zoning Administrator/Building Inspector may issue building permits, which are within strict compliance with the requirements of this ordinance when delegated such authority by the Planning & Zoning Commission. Whenever there is a question other than the literal requirements of this ordinance, it is to be brought directly to the Planning & Zoning Commission Chair.

3.6 VACANCIES

Whenever a vacancy shall occur, the Town Board shall appoint an appropriate member to complete the unexpired term.

3.7 MATTERS REFERRED TO THE COMMISSION

- A. The Town Board shall refer to the Commission, for its consideration and report before final action is taken by the Town Board on the following matters: the location and

architectural design of any public building; the location of any statue or other memorial; the location, acceptance, extension, alteration, vacation, abandonment, change of use, sale, acquisition of land for or lease of land for any street, alley or other public way, park, playground, airport, area for parking facilities, or other memorial or public grounds; the location, extension, abandonment or authorization for any public utility whether public or privately owned; all proposed and final certified surveys and subdivision plats in the Town; the location, character and extent, or acquisition, leasing or sale of lands for public or semi-public housing, slum clearance, relief of congestion, or vacation camps for children; conditional use permits and the abandonment or repeal of any ordinance adopted pursuant to planning and zoning. Unless such report is made within 45 days or such longer period as may be authorized by the Town Board, the Town Board may take final action without it.

B. The Commission shall have the following powers:

1. To review and recommend to the Town Board the approval, conditional approval, or denial of conditional use permits within the provisions of this Zoning Ordinance.
2. To review and recommend to the Town Board the approval, conditional approval, or denial of preliminary land divisions.
3. To review and recommend to the Town Board the conditional approval, or denial of an amendment to the text or Official Zoning Map of this ordinance.
4. Substitutions – To review and recommend to the Town Board approval of applications for substitution of more restrictive nonconforming uses for existing nonconforming uses, provided no structural alterations are to be made. Whenever the Town Board permits such a substitution, the use may not thereafter be changed without application.
5. Unclassified Uses – To review and recommend to the Town Board approval of applications for unclassified and unspecified uses, provided that such uses are similar in character to the principal uses permitted in the district. Not allowed in Exclusive Agricultural District One. Only those uses specified as permitted or conditional are allowed in the Exclusive Agricultural District.
6. Temporary Uses – To review and recommend to the Town Board approval of applications for temporary uses in any district, provided that such uses are of a temporary nature, do not involve the erection of a substantial structure, and are compatible with the neighboring uses. The permit shall be temporary, revocable, subject to any conditions required by the Town Board and shall be issued for a period

not to exceed twelve (12) months. Compliance with all other provisions of this Ordinance shall be required.

3.8 MEETINGS

Meetings shall be called when necessary, as specifically determined by the Chair of the Planning & Zoning Commission. Special meetings may be called by the Chair or upon written request of two Planning & Zoning Commission members. Notice of special meetings shall comply with open meetings law found in Chapter 19 Subchapter V [Open Meetings of Governmental Bodies] of the Wisconsin State Statutes.

3.9 MINUTES

The Secretary shall keep the minutes.

3.10 QUORUM

Three (3) members shall constitute a quorum to transact any business and formulate its proper action thereon.

3.11 ORGANIZATION

The presiding officer shall name the secretary. The committee may also formulate rules for its operation and procedures.

3.12 COMPENSATION

The members shall be compensated as determined by the Town Board Resolution.

3.13 TOWN BOARD

The Town Board is the public body having authority thereon to change or amend this Ordinance after review and recommendation of the Planning & Zoning Commission. The Town Board may also direct that Building Permits be issued when the Board indicates by majority vote that the permit is in compliance with this Ordinance and the Land Use Plan.

SECTION 4.0 ZONING DISTRICT

4.1 ESTABLISHMENT

For the purpose of this ordinance the Town of Magnolia is hereby divided into the following Zoning Districts:

- Exclusive Agricultural District One (A-1)
- General Agricultural District Two (A-2)
- Small Scale Agricultural District Three (A-3)
- Rural Residential District (RR)
- Lowland Conservancy Overlay District One (C-1)
- Highland Conservancy Overlay District Two (C-2)
- Mobile Home Park Overlay District (MHP)
- Special Purpose District (SP)
- Tower and Antenna Overlay District (ANT)

4.2 ZONING MAP AND DISTRICT BOUNDARIES

- A. The boundaries of such districts are hereby established as shown on a map entitled "Official Zoning Map, Town of Magnolia, Wisconsin", dated December 9, 2008 as amended, which accompanies and is made a part of this Ordinance. Such boundaries shall be construed to follow: town and corporate limit lines; United States Public Land Survey lines; land parcel lines; road right-of-ways lines, centerline of streets, roads, highways, alleys, and railroad right-of-way lines. One copy of said map shall be kept on file in the office of the Town Clerk and a copy correct only as of the day of passage of this Ordinance shall be attached to this Ordinance. The Town Clerk or Town Board designee shall forward all map amendments approved by the Town Board to the Rock County Planning and Development Agency. Amendments shall be included on the Official Zoning Map as soon as possible. The original Official Zoning Map shall be kept in the Rock County Planning and Development Agency Office and the Town Clerk shall receive an updated copy as revised current version of said map reflecting current zoning boundary locations. The Clerk shall save at least one copy of all updated Official Zoning Map editions.
- B. Overlay districts, as presented in this section, are created for the purpose of imposing special regulations in given designated areas of the Town to accomplish stated purposes that are set forth for each overlay district. No overlay district may allow or impose a use not permitted in the Exclusive Agriculture Zoning District One.

Overlay districts shall be in addition to, and shall overlap and overlay all other zoning districts within which lands placed in each district also lie, so that any parcel of land lying in an overlay district shall also lie in one or more of the other zoning districts provided for by this Ordinance. No overlay district may impose uses in the Exclusive Agricultural District One (A-1) that are not permitted or conditional uses in the A-1 District.

4.3 GENERAL DISTRICT REGULATIONS

The following regulations set forth requirements that may not apply universally throughout the town, but rather cover issues that are applicable to one or more districts.

- A. Right to Farm – The Town, in establishing exclusive agricultural districts, effectively has decided that agricultural uses of land are appropriate in those districts. An exclusive agricultural district also protects owners of farmland against lawsuits alleging that agricultural practices constitute a public nuisance. According to Section 823.08 [Actions against Agricultural Uses] of the Wisconsin Statutes, the court cannot substantially restrict agricultural practices in an exclusive agricultural use district, except when necessary to protect the public health or safety.
- B. Exceptions to Height Regulations – The height limitations contained in the requirements for permitted and conditional uses do not apply to grain elevators, silos, barns, spires, belfries, cupolas, antennas, water tanks, fire towers, windmills, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.
- C. Structures to Have Access – Every residential building hereafter erected or moved shall be on a lot adjacent to a public road and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.
- D. Parking and Storage of Certain Vehicles – Motor vehicles without current license plates shall not be parked or stored unless they are in completely enclosed buildings.
- E. A setback less than the setback required by this Ordinance may be permitted where there are at least two (2) existing main buildings existing on separate parcels or the same parcel at the date of enactment of this Ordinance within 200 feet on both sides of the proposed site that are built to less than the required setback. In such cases, the setback shall be the average of the nearest main building on each side of the proposed site or if there is no building on one side, the average of the setback for the main building on one side and the required setback. Such setback shall be granted by

a permit from the Planning & Zoning Commission and shall not require a special exception or variance.

- F. Where a parcel has an area less than the minimum number of square feet required for the district in which it is located, and was of record as such at the time of the passage of this ordinance (July 26, 1977), such lot may be occupied by a one (1) family structure if the zoning district setback requirements, septic system, and water well requirements can be met.
- G. Vacation of Public Streets, Alleys and Right-of-Ways shall cause the land vacated to be automatically placed in the same district as the abutting side to which the vacated land reverts.
- H. In any district no more than one principal structure shall be allowed as a permitted or a conditional use on a single parcel lot except for manufactured homes when in a mobile home park.
- I. All new land parcels with a current or proposed residence shall be served with electric and telephone lines with electric lines being less than 12,400 volts. Cable television and natural gas shall be installed underground within the utility easements when the utility line is adjacent to the land division or available to an adjoining parcel. Utility easements and lines shall be required to be on the Building Permit Map. Provisions shall be made to assure that installation of utilities take place prior to final land division approval. The only exception will be on an immediately adjacent parcel where existing overhead or underground lines can provide direct service to a structure.
- J. No overhead electric power or telephone lines shall be erected within one-half mile of any boundary of the site of any airport, landing field, or landing and takeoff strip.
- K. Community living arrangements as provided in Section 60.63 [Community and other Living Arrangements] of the Wisconsin Statutes shall be permitted without restriction as to the number of facilities so long as the total capacity of all the community living arrangements does not exceed 25 people or one percent (1%) of the town's population, whichever is greater.
- L. No community living arrangement may be established after March 27, 1978 which is located within 2,500 feet of any other such facility. Two community living arrangements may be adjacent if authorized by the Planning & Zoning Commission and if both comprise essential components of a single program.

- M. Habitation of a recreational vehicle, tent, or camper shall not take place on a parcel located in the Town for more than a total of fourteen days (within a 12 month period) unless within a Commercial Recreation District.
- N. Storage of a recreational vehicle, mobile home, manufactured home, camper, pull trailer, 5th wheel, snowmobile, ATV, or boat without a current registration/license issued by the State of Wisconsin shall not be parked or placed on any land parcel located in the Town unless within a completely enclosed building. Exception: Pop-up campers and pull trailers under 3,000 pounds are exempt because they do not require Wisconsin registration or licenses.
- O. No new land parcel shall be created that is not in compliance with the minimum land parcel requirements of this ordinance.
- P. All land parcels existing as of the approval date of this ordinance (July 27, 1977), that are smaller than the minimum square footage requirement of the assigned zoning district, shall be entitled to the permitted and conditional uses provided in the district when the front, side, and rear yard setbacks, sewer and water requirements can be met.
- Q. Semi-Trailers shall not be parked on a parcel of land for more than seven consecutive days, unless licensed for farming and are used in agriculture production. In Agricultural Districts, the use of semi-trailers as a storage facility requires a conditional use permit reviewed and recommended by the Planning & Zoning Commission to the Town Board for authorization.

4.4 EXCLUSIVE AGRICULTURAL DISTRICT ONE (A-1)

A. PURPOSE AND INTENT

The purpose of the A-1 District is to provide a method of obtaining the agricultural goals and objectives and protecting the Agricultural Preservation Areas indicated in the Town Land Use Plan and be consistent with the adopted Rock County Agricultural Preservation Plan and Chapter 91 [Farmland Preservation], Wisconsin Statutes, for the purpose of providing the basis for eligibility of farmland owners for Farmland Preservation Tax Credits. This district exclusively provides for agricultural uses and uses consistent with agriculture. The intent in having this district is to conserve prime agricultural soils and historically farmed areas for agricultural production. Additionally, the district is designed to prevent unsightly development sprawl and the uneconomical spread of development resulting in excessive costs to the community for the provision of essential public services. Prime agricultural soils are predominant in this district and are to be very sparsely developed to protect the Town's and the County's agricultural economic base.

All structures and improvements in this district shall be a "use consistent with agricultural uses" as defined in the Definitions section of this ordinance. This district's boundaries shall be consistent with the Exclusive Agricultural Preservation areas on the Rock County Agricultural Preservation Plan Map for the Town of Magnolia.

B. PERMITTED USES

The following uses are permitted in this district:

1. **AGRICULTURAL USES** – The following agricultural activities conducted for the purpose of producing an income or livelihood shall be permitted:
 - a. General farming including dairying, keeping livestock under 500 animal units at a density of more than one (1) animal unit for each 100 square feet of area, poultry raising, and other similar agricultural enterprises uses in accordance with 91.01(2) [Farmland Preservation Definitions "Agricultural Use"] of the Wisconsin Statutes.
 - b. Forestry, beekeeping, grazing, hatcheries, nurseries, orchards, mint, seed crops and other similar agricultural enterprises or uses in accordance with 91.01 (2) [Farmland Preservation Definitions "Agricultural Use"] of the Wisconsin Statutes.

- c. Enrolling land in federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.
- d. Any other use that Department of Agriculture, Trade and Consumer Protection, by rule identified as an agricultural use.

2. **AGRICULTURAL ACCESSORY USES ON FARMS** – The following agricultural accessory uses on a Farm shall be permitted:

- a. An activity or business operation that is an integral part of or incidental to an agricultural use as set forth above.
- b. One (1) Farm Residence, including normal residential appurtenances with an attached or unattached garage. The single family farm residence location shall not:
 - 1) Significantly impair or limit the current or future agricultural use of other protected farmland, and
 - 2) Convert prime farmland from agricultural use or convert land previously used as cropland, other than woodland, from agricultural use if on the farm there is a reasonable alternative location.
- c. An accessory building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use. This may include, for example:
 - 1) A facility used to keep livestock on the farm.
 - 2) A facility used to store or process inputs primarily for agricultural uses on the farm.
 - 3) A facility used to keep or service vehicles or equipment primarily employed for agricultural uses on the farm.
 - 4) A wind turbine or solar energy facility that collects wind or solar energy on the farm, and uses or transforms it to provide energy primarily for use on the farm so long as said wind turbine or solar energy facility complies with all height restrictions.

- d. Paddocks, stables, and holding pens.
- e. Truck farming, sale of farm products produced on the premises that do not require outside processing before they are offered for sale, and up to two unlighted signs not larger than 32 square feet each advertising such sale.
- f. Transportation, utility, communication, or other uses required under state or federal law that preempts the requirement of a conditional use permit in accordance with Chapter 91.44 (1)(f) [Farmland Preservation Permitted Uses] of the Wisconsin State Statutes.

C. CONDITIONAL USE PERMIT

Certain land uses require a Conditional Use Permit be reviewed by the Planning & Zoning Commission and approved by the Town Board prior to the use being established. The Planning & Zoning Commission and Town Board shall hold public hearings, review the applicable facts pertaining to the proposed Conditional Use, and apply the provisions and standards in Section 5 of this Ordinance. The Commission shall make a recommendation to the Town Board to deny, approve or approve with conditions the application. The Town Board will approve the conditional use only after finding that its inclusion in this district, possesses a high likelihood of not creating problems with regard to nearby parcels of land or occupants thereof, and which are therefore permitted only subject to the fulfillment of conditions which effectively insure that no such problems will be created.

1. PROCEDURES

- a. Conditional Uses allowed under the district are required to meet both of the following requirements before a permit is granted:
 - 1) The use must be consistent with agricultural uses as provided in Section 15.2 - Words and Terms Defined of this ordinance.
 - 2) The use must be found necessary in light of alternative locations available for that use.

2. CONDITIONAL USES

The following uses require review and recommendation by the Planning & Zoning Commission to the Town Board for approval of a Conditional Use Permit prior to the use being established:

a. **AGRICULTURAL-RELATED USES** – Any farm-related, commercial or industrial uses, whether or not said use is located on a farm, that are directly related to the farm operation, including the following:

- 1) An agricultural equipment dealership, facility providing agricultural supplies, facility for storing or processing agricultural products, or facility for processing agricultural wastes.
- 2) Supportive agri-business activities to include grain elevators, seed, fertilizer and farm chemical sales, commercial feedlots, feed mills and similar agricultural activities.
- 3) Veterinary services primarily serving livestock, commercial or wholesale greenhouses, holding pens, confinement operations and other agricultural related uses that may cause additional traffic, noxious odors, or noise.
- 4) Slaughtering livestock
- 5) A manure digester, bio-fuel facility or other facility that produces energy primarily for use off-site.
- 6) Second Farm Residence – The second farm residence shall obtain any driveway or access control permit in addition to a separate well and private onsite wastewater treatment system. The location of the second farm residence shall not:
 - a) Significantly impair or limit current or future agricultural use of other protected farmland, and
 - b) Convert prime farmland from agricultural use or convert land previously used as cropland, other than woodland, from agricultural use if on the farm there is a reasonable alternative location.

b. A Livestock Facility which exceed 500 animal units.

- 1) Livestock Facilities will follow the guidelines and file all necessary applications materials as defined in WI ADMIN CODE ATCP 51 [Local Approval of Existing Livestock Facilities]. The Rock County Land Conservation Department will verify that all necessary applications materials meet the intent of the ATCP 51 and will report findings of fact to the board.

c. Governmental, Institutional, Religious, or Nonprofit community uses qualify if the Town determines that all of the following apply.

- 1) The use and its location in the zoning district are consistent with the purposes of the zoning district. The use and its location in the zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
- 2) The use is reasonably designed to minimize the conversion of land, at and around the site of the use, from agricultural use or open space use.
- 3) The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
- 4) Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.

d. A Transportation, Communications, Pipeline, Electric Transmission, Utility, or Drainage use and not requiring authorization under SS. 196.491 [Strategic Energy Assessment; Electric Generating Facilities and Transmission Lines; Natural Gas Lines] Wisconsin Statutes, provided they are enclosed by an eight-foot or more protective fence must meet the following:

- 1) The use and its location in the zoning district are consistent with the purposes of the zoning district.
- 2) The use and its location in the zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
- 3) The use is reasonably designed to minimize the conversion of land, at and around the site of the use, from agricultural use or open space use.
- 4) The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
- 5) Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.

- e. Storing, processing or handling raw agricultural commodities obtained directly from farms.
- f. A business, activity, or enterprise, whether or not associated with an agricultural use, which meets all of the following requirements:
 - 1) It is conducted on a farm by an owner or operator of that farm.
 - 2) It requires no buildings, structures, or improvements other than those existing as a permitted, accessory or conditional use.
 - 3) It employs no more than four (4) full-time employees annually.
 - 4) It does not impair or limit the current or future agricultural use of the farm or of other protected farmland.
- g. For purposes of farm consolidation, pre-existing farm residences whose initial construction began before July 26, 1977 may be separated from the farm parcel. Farm residences or structures being separated shall not exceed five (5) acres. The Town Board is herein granted the authority to reduce the parcel size below five (5) acres based on the proposed parcels physical characteristics and farmland being taken out of production. The remaining portion of the original parcel shall conform to the standards of this district. Any separation of farm residences or structures from an existing parcel shall meet all of the following requirements:
 - 1) The separation is for the purpose of farm consolidation;
 - 2) The farm residence or structures existed prior to the adoption of the original ordinance (July 26, 1977); and
 - 3) The separated farm residence or structures parcel is no larger than reasonably necessary to accommodate the proposed use.
- h. A structure or improvement made as a part of a lease for oil and natural gas exploration and extraction. Must be licensed by WI DNR under Sub Chapter II SS. 295 [Nonmetallic Mining Reclamation; Oil and Gas; Ferrous Metallic Mining] Wisconsin Statutes.

- i. Riding stables, riding schools, and hunting clubs using game birds, poultry, fowl and similar hunting type activities in the non-agricultural season that are incidental to agriculture use.
- j. Agriculture-related airstrip not open to the public that is accessory to the farm use.
- k. If an existing or proposed farm business, confined animal facilities operation, agri-business, storage building animal waste storage structure is located on a Town road or such material traverses a Town road, no Conditional Use Permit shall be issued unless the Town Board is assured that any damage to the road caused by the applicant will be repaired or reconstructed at the applicants full expense by a letter of credit, bond or other acceptable financial assurance that will protect the Town against any expense due to the inability or refusal of the applicant to repair any damage to the road.
- l. The location of semi-trailers for agricultural storage in and around the farmstead, when they have their wheels and axles removed; signs, names and labels removed; and are painted to blend in with dominant colors of the farmstead buildings.
- m. Conditional Uses should not infringe on Agricultural Capability Unit Soil Types 1, 2, or 3 as determined in the United States Department of Agriculture Soil Conservation Soil Survey of Rock County.
- n. Wind generators for electrical power. Must meet the requirements of SS. 91.46(4) [Farmland Preservation Zoning] Wisconsin Statutes.
 - 1) The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.
 - 2) The use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
 - 3) The use is reasonably designed to minimize conversion of land, at and around the site of the use, from agricultural use or open space use.
 - 4) The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.

- 5) Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.

D. STANDARDS FOR PERMITTED AND CONDITIONAL USES

Within the A-1 District the following standards shall apply:

1. Minimum Lot Size	35 acres
2. A conditional use land lot to separate off a pre-existing farm residence shall not exceed 5 acres.	
3. The Town Board is herein granted the authority to reduce the proposed lot for a pre-existing farm residence below five (5) acres based on the proposed lots physical characteristics, location of existing structures, and/or the quality of farmland that would be taken out of production.	
4. The applicable Zoning District regulations pertain to size of Conditional Use Permit lot.	
5. The remaining portion of a parent lot shall conform to the minimum lot size of 35 acres.	
6. Lots of land existing as of July 26, 1977 that are less than 35 acres, shall be entitled to one (1) residential structure for the owner of the lot and shall not be further divided. Nonfarm Residences shall meet SS 91.46(2)(c) [Farmland Preservation Zoning] Wisconsin Statutes. <ol style="list-style-type: none"> a) Will not convert prime farmland from agricultural use or convert land previously used as cropland, other than a woodlot, from agricultural use if on the farm there is a reasonable alternative location or size for a nonfarm residence. b) Significantly impair the current or future agricultural use of other protected farmland. 	
7. Maximum Building Height – Residential Structures	35 feet
8. Other Structure Height Limitations	None

9. Minimum Front Yard Setback on Local Roads	50 feet
➤ All front yard setbacks are to also refer to Section 10.1 of this Ordinance for setbacks on Arterial, Collector, and Local roads	
10. Minimum Rear Yard Setback	35 feet
11. Minimum Side Yard:	
a) Principal Buildings	20 feet on each side
b) Accessory Buildings	10 feet on each side
12. Minimum Lot Width on a Public Road	100 feet
13. Minimum Residential Structure Size	1,200 square feet
14. Minimum Residential Structure Width	24 feet
15. General Setbacks Applicable to Livestock Structures:	
<p>a) <u>Property Lines</u> – Except as provided for waste storage structures, livestock structures must be located a minimum of 100 feet from the property line if the livestock facility will have fewer than 1,000 animal units, and 200 feet from the property line if the livestock facility will have 1,000 or more animal units. The setback requirement does not prevent the use or expansion of a livestock structure that was located within the setback area prior to the effective date of this setback requirement, except that a structure may not be expanded closer to the property line.</p>	
<p>b) <u>Public Road Right-of-Way</u> – Except as provided for waste storage structures, livestock structures must be located a minimum of 100 feet from a public road right-of-way if the livestock facility will have fewer than 1,000 animal units, and 150 feet from a public road right-of-way if the livestock facility will have 1,000 or more animal units. This setback requirement does not prevent the use or expansion of a livestock structure that was located within the setback area prior to the effective date of this setback requirement, except that a structure may not be expanded closer to the public road right-of-way.</p>	
<p>c) <u>Waste Storage Structure</u> - A new waste storage structure may not be located within 350 feet of a property line, or within 350 feet of the nearest point of any public road right-of-way.</p>	

A single new waste storage structure may be constructed closer to the property line or public road if a new structure is:

- Located on the same tax parcel as a waste storage structure in existence before May 1, 2006;
- No larger than the existing structure;
- No further than 50 feet from the existing structure
- No closer to the road or property line than the existing structure.

This setback requirement does not apply to existing waste storage structures, except that an existing structure within 350 feet of a property line may not expand toward that property line or road.

d) **Water Quality and Related Setback Requirements:**

Navigable Waters and Wetlands - A livestock facility shall comply with setback and related requirements in any applicable Rock County shore land or wetland zoning ordinances or chapter enacted within the scope of authority granted under 59.692 [Zoning of Shorelands on Navigable Waters], 61.351 [Zoning of Wetlands in Shorelands] of the Wisconsin Statutes.

Floodplain - A livestock facility shall comply with setback and related requirements in any applicable floodplain zoning ordinance or chapter that is enacted within the scope of statutory authority under 87.30 [Floodplain Zoning] of the Wisconsin Statutes.

Wells - All wells located within a livestock facility shall comply with Chapters NR811 [Requirements for the Operation and Design of Community Water Systems] and 812 [Well Construction and Pump Installation] of the Wisconsin Administrative Code. New or substantially altered livestock structures shall be separated from existing wells by the distances required in said Chapters NR811 and 812, regardless of whether the livestock facility operator owns the land in which the wells are located. A livestock structure in existence on May 1, 2006, may be altered as long as the alteration does not reduce the distance between the livestock structure and an existing well.

16. All new livestock facilities, regardless of size must as a minimum meet the

Agricultural performance standards and prohibitions, prior to populating the site with animals, as identified in Wisconsin Administrative Code NR 151 [Runoff Management]. The Rock County Land Conservation Department will verify that all performance standards are met and will report findings of fact to the board.

All proposed livestock facility expansion of greater than 20% of the existing facility size, must as a minimum meet the Agricultural performance standards and prohibitions, prior to populating the site with animals, as identified in Wisconsin Administrative Code NR 151. This requirement is only applicable to the proposed expansion component. The Rock County Land Conservation Department will verify that all performance standards are met and will report findings of fact to the board.

Farms operated for the disposal or reduction of garbage, sewage, rubbish or offal, provided that no buildings for the housing of livestock or poultry shall be located within one hundred (100) feet of any boundary of a residential or commercial lot other than that of the owner or lessee of such buildings containing such livestock or poultry.

E. FARM CONSOLIDATION

Pre-existing farm residences whose initial construction began before July 26, 1977 may be separated from the farm parcel and rezoned. Farm residences or structures being separated shall not exceed five (5) acres. The Town Board is herein granted the authority to reduce the parcel size below five (5) acres based on the proposed parcels physical characteristics and farmland being taken out of production. The remaining portion of the original parcel shall conform to the standards of this district. Any separation of farm residences or structures from an existing parcel shall meet all of the following requirements:

1. The separation is for the purpose of farm consolidation;
2. The farm residence or structures existed prior to the adoption of the original ordinance (July 26, 1977); and
3. The separated farm residence or structures parcel is no larger than reasonably necessary to accommodate the proposed use.

F. FINDINGS BEFORE REZONING PARCELS OUT OF THIS DISTRICT

The Town Board shall only approve petitions for rezoning areas within this district only after positive findings are made, based upon consideration of the following criteria and meets the requirements of Section 91.48 [Rezoning of Land out of a Farmland Preservation Zoning District] Wisconsin State Statutes:

1. The rezoning is consistent with any applicable comprehensive plan.
2. Per 91.48(1)(c) Wisconsin State Statutes the rezoned land is substantially consistent with the County Certified Farmland Preservation Plan.
3. The land is better suited for a use not allowed in the Exclusive Agricultural District 1 (A-1).
4. The rezoning will not substantially impair or limit current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural uses.
5. Adequate public facilities to accommodate development either exist or will be provided within a reasonable time.
6. Provision of public facilities to accommodate development will not place an unreasonable burden on the affected local units of government and school districts to provide them.
7. The land is suitable for development and development will not result in undue water or air pollution, cause unreasonable soil erosion, or have an unreasonably adverse effect on rare or irreplaceable natural resources.
8. Shall not adversely affect the sustainability of the agricultural economy.
9. Rural Residential density exceeding .9 dwelling units per acre shall be directed to areas with urban services.
10. No subdivisions shall be approved in Exclusive Agricultural Land.
11. The Town Board shall document that items (1), (2), and (3) were considered by providing their findings on each of these issues in writing to the Department of Agriculture, Trade and Consumer Protection along with notification of any land zoned out this district. This shall be accomplished by:

- a. The Town Clerk/Treasurer providing an approved copy of the zoning change and findings approved by the Town Board, to the Rock County Planning and Development Agency.
- b. The County Planning and Development Agency will assign the zoning change to the respective land parcel on the Official Town Zoning Map.
- c. By March 1 of each year the Town of Magnolia shall provide the Wisconsin Department of Agriculture, Trade & Consumer Protection (DATCP) with a report of the number of acres that have been rezoned out of the A-1 Zoning District during the previous year and a map that clearly shows the location of those areas.

G. PROHIBITED USES

No structure or improvement may be built on a parcel of land in this district unless it is consistent with the permitted or conditional agricultural uses listed in this district.

4.5 GENERAL AGRICULTURAL DISTRICT TWO (A-2)

A. PURPOSE AND INTENT OF AGRICULTURAL DISTRICT TWO (A-2)

The purpose of the A-2 District is to provide a means of accomplishing the agricultural goals and objectives in the Land Use Plan for land parcels located in the General Agricultural Area.

This district is designed to promote the maintenance and preservation of areas that have been historically utilized for agricultural purposes. The intent of the A-2 District is to provide for agricultural activities and uses that are compatible with agriculture that are generally best suited for smaller farm units.

B. PERMITTED USES

The following uses are permitted in this district:

1. General farming including dairy, livestock and poultry raising, nurseries, and other similar enterprises or uses. No buildings for the housing of livestock or poultry shall be located within 100 feet of any boundary of a residential or commercial lot other than that of the owner or lessee of such buildings containing such livestock or poultry. No farms operated may be operated for the disposal or reduction of garbage, sewage, rubbish or offal.
2. Forestry, grazing, hatcheries, nurseries, orchards, paddocks, stables, truck farming, and other appropriate agricultural pursuits, sale of farm products produced on the premises that do not require outside processing before they are offered for sale, and up to two signs with each sign face no larger than 4 feet x 8 feet (32 square feet) advertising such sale.
3. One single-family residence for owners of the parcel.
4. Installation of an antenna on a communication tower when consistent with the number of antennas authorized under the towers conditional use permit.

C. CONDITIONAL USES

Certain land uses require a Conditional Use Permit be reviewed by the Planning & Zoning Commission and approved by the Town Board prior to the use being established. The Planning & Zoning Commission and Town Board shall hold public hearings, review the applicable facts pertaining to the proposed Conditional Use, and apply the provisions and

standards in Section 5 of this Ordinance. The Commission shall make a recommendation to the Town Board to deny, approve or approve with conditions the application. The Town Board will approve the conditional use only after finding that its inclusion in this district, possesses a high likelihood of not creating problems with regard to nearby parcels of land or occupants thereof, and which are therefore permitted only subject to the fulfillment of conditions which effectively insure that no such problems will be created.

1. Churches, veterinary hospitals, publicly owned park and recreational areas, town halls, and other government uses.
2. Water storage facilities, gas and electric utility uses not requiring authorization under 196.491[Strategic Energy Assessment; Electric Generating Facilities and Transmission Line; Natural Gas Lines] of the Wisconsin Statutes, provided they are enclosed by an eight-foot or more protective fence.
3. A structure or improvement made as a part of a lease for oil and natural gas exploration and extraction.
4. A business, activity, or enterprise, whether or not associated with an agricultural use, which meets all of the following requirements:
 - a. It is conducted on a farm by an owner or operator of that farm.
 - b. It requires no buildings, structures, or improvements other than those existing as a permitted, accessory or conditional use.
 - c. It employs no more than four (4) full-time employees annually.
 - d. It does not impair or limit the current or future agricultural use of the farm or of other protected farmland.
5. Game management, fish and fur farms, veterinary services, commercial or wholesale greenhouses, sod farms, and other agricultural uses that may cause additional traffic, noxious odors, or noise.
6. Riding stables, riding schools, and hunting clubs using game birds, poultry, fowl and similar hunting type activities in the non-agricultural season that are incidental to agriculture use.

7. Agricultural related uses including grain elevators; seed, fertilizer, and farm chemical sales; commercial feedlots; feed mills; commercial corn drying and storage facilities, and similar agricultural activities.
8. Agriculture related airstrip not open to the public, which is accessory to the farm use.
9. If an existing or proposed business, agri-business, storage building or animal waste storage structure is located on a Town road or such material traverses a Town road, no Conditional Use Permit shall be issued unless the Town Board is assured that any damage to the road caused by the applicant will be repaired or reconstructed at the applicants full expense by a letter of credit, bond or other acceptable financial assurance that will protect the Town against any expense due to the inability or refusal of the applicant to repair any damage to the road.
10. The location of semi-trailers for agricultural storage in and around the farmstead, when they have their wheels and axles removed; signs, names and labels removed; and are painted to blend in with dominant colors of the farmstead buildings.
11. Telecommunication towers and any antenna on a tower that does not have a conditional use permit.
12. Wind generators for electrical power.

D. STANDARDS FOR PERMITTED AND CONDITIONAL USES

1. Minimum Lot Size	10 acres
2. Maximum Lot Size	34.99 Acres
3. Maximum Building Height – Residential Structures	35 feet
4. Other Agricultural Structures Height Limitations	None
5. Minimum Front Yard Setback on Local Roads	50 feet
➤ <i>All front yard setbacks are to also refer to Section 10.1 of this Ordinance for setbacks on Arterial, Collector, and Local roads</i>	
6. Minimum Rear Yard Setback	50 feet

7. Minimum Side Yard Setback:	
a) Principal Buildings	20 feet on each side
b) Accessory Buildings	10 feet on each side
8. Minimum Lot Frontage on Public Road	100 feet
9. Animals per Acre	1 animal unit
10. Minimum Residential Structure Size	1,200 square feet
11. Minimum Residential Structure Width	24 feet

E. PROHIBITED USES

1. No structure or improvement may be built, or land used, in this district unless it is a Permitted or an approved Conditional Use in this District.
2. Confined animal facilities operation (CAFO).

4.6 SMALL SCALE AGRICULTURAL DISTRICT THREE (A-3)

A. PURPOSE AND INTENT OF AGRICULTURAL DISTRICT THREE (A-3)

The purpose of the A-3 District is to provide a mixture of low density residential and agricultural land uses which are consistent with the goals and objectives of the Land Use Plan for the areas indicated as Small Scale Agricultural Area on the Land Use Plan Map. This district is designed to permit utilization of relatively small land parcels in predominantly agricultural areas for combined rural residential/agricultural use. The A-3 District is intended to be applied to those rural lands that have marginal utility for agricultural use because of soil type, lot configuration and/or topography. The A-3 Districts are to be located in areas with soil types that do not have on-site sewer limitations and existing parcel sizes of 3 to less than 10 acres.

B. PERMITTED USES

The following uses are permitted in this district:

1. One residential structure per parcel.
2. General farming including livestock and poultry raising, nurseries, and other similar enterprises or uses. No buildings for the housing livestock or poultry shall be located within 100 feet of any boundary of a residential or commercial lot other than the residence of the owner or lessee of the parcel of such buildings containing such livestock or poultry. No farms may be operated for the disposal or reduction of garbage, sewage, rubbish or offal.
3. In-season roadside stands for the sale of farm products produced on the premises, and up to two signs not larger than eight square feet each advertising such sale.
4. Gardening, including truck gardens, nurseries and greenhouses.
5. Governmental buildings, except sewage disposal plants, garbage incinerators and buildings for the repair or storage of road building or maintenance machinery.
6. Publicly owned parks, playgrounds, recreational and community center buildings and grounds.
7. Pre-schools, K-12 schools, churches and their affiliated uses.

8. Public buildings, except sewage plants, garbage incinerators, landfills, warehouses, garages, shops and storage areas.
9. Water storage facilities and their accessory structures.
10. Accessory buildings, including buildings clearly incidental to the residential use of the property provided that no accessory building may be used as a separate dwelling unit.
11. Uses customarily incidental to any of the above uses provided that no such use generates traffic or noise that would create a public or private nuisance.
12. Installation of an antenna on a communication tower when consistent with the number of antennas authorized under the towers conditional use permit.

C. CONDITIONAL USES

Certain land uses require a Conditional Use Permit be reviewed by the Planning & Zoning Commission and approved by the Town Board prior to the use being established. The Planning & Zoning Commission and Town Board shall hold public hearings, review the applicable facts pertaining to the proposed Conditional Use, and apply the provisions and standards in Section 5 of this Ordinance. The Commission shall make a recommendation to the Town Board to deny, approve or approve with conditions the application. The Town Board will approve the conditional use only after finding that its inclusion in this district, possesses a high likelihood of not creating problems with regard to nearby parcels of land or occupants thereof, and which are therefore permitted only subject to the fulfillment of conditions which effectively insure that no such problems will be created.

1. A business, activity, or enterprise, whether or not associated with an agricultural use, which meets all of the following requirements:
 - a. It is conducted on a farm by an owner or operator of that farm.
 - b. It requires no buildings, structures, or improvements other than those existing as a permitted, accessory or conditional use.
 - c. It employs no more than four (4) full-time employees annually.
 - d. It does not impair or limit the current or future agricultural use of the farm or of other protected farmland.

2. Institutions of a charitable or philanthropic nature, hospitals, clinics and sanitariums, libraries, museums, community buildings, private clubs, and fraternities except those whose principal activity is a service customarily carried on as a business, or also riding club.
3. Fur farms, kennels, insect breeding facilities, commercial or wholesale greenhouses.
4. If an existing or proposed business, agri-business, storage building or animal waste storage structure is located on a Town road or such material traverses a Town road, no Conditional Use Permit shall be issued unless the Town Board is assured that any damage to the road caused by the applicant will be repaired or reconstructed at the applicants full expense by a letter of credit, bond or other acceptable financial assurance that will protect the Town against any expense due to the inability or refusal of the applicant to repair any damage to the road.
5. The location of semi-trailers for agricultural storage in and around the farmstead, when they have their wheels and axles removed; signs, names and labels removed; and are painted to blend in with dominant colors of the farmstead buildings.
6. Telecommunication towers and any antenna on a tower that does not have a conditional use permit.
7. Wind generators for electrical power.

D. REQUIREMENTS FOR PERMITTED AND CONDITIONAL USES

1. Maximum Building Height	35 feet
2. Minimum Side Yard Setback:	
a) Principal Buildings	20 feet
b) Accessory Buildings	10 feet
3. Minimum Front Yard Setback on Local Roads	50 feet
<p>➤ <i>All front yard setbacks are to also refer to Section 10.1 of this Ordinance for setbacks on Arterial, Collector, and Local roads</i></p>	

4. Minimum Rear Yard Setback	30 feet
5. Minimum Lot Size	3 acres
6. Maximum Lot Size	9.99 Acres
7. Animals per Acres	1 animal unit
8. Minimum Lot Width	300 feet
9. Minimum Lot Frontage on Public Road	300 feet
10. Minimum Residential Building Width	24 feet
11. Minimum Residential Building Size	1,200 sq. feet

E. PROHIBITED USES

1. No structure or improvement may be built, or land used, in this district unless it is a Permitted Use or an approved Conditional Use in this district.
2. Confined animal facilities operation (CAFO).

4.7 RURAL RESIDENTIAL DISTRICT (R-R)

A. PURPOSE AND INTENT OF R-R DISTRICT

The purpose of the Rural Residential (R-R) District is to provide a method of obtaining the residential goals, objectives, and policies of the Land Use Plan. The intent of the R-R District is to provide for rural residential development on sites served by private sewer systems. The areas zoned R-R should be in and around existing residential development areas indicated on the Land Use Plan Map. These areas should be designed to be quiet, pleasant and relatively spacious living areas protected from traffic hazards and the intrusion of incompatible land uses.

B. PERMITTED USES

1. One single-family structure. One private garage not to exceed 90% of the total square footage of the residential structure.
2. One accessory structure of up to 800 square feet, for the first 40,000 square feet of the land parcel. An additional 100 square feet may be added to the accessory structure size for each 10,000 square feet of the parcel above 40,000 square feet but not to exceed 90% of the total square footage of the residential structure.
3. Governmental buildings to include Town Halls, Police Department Offices, and Fire Department Facilities.
4. Public and quasi-public owned parks, playgrounds, publicly owned community buildings and grounds.
5. Grade schools, churches and their affiliated uses.

C. CONDITIONAL USE

Certain land uses require a Conditional Use Permit be reviewed by the Planning & Zoning Commission and approved by the Town Board prior to the use being established. The Planning & Zoning Commission and Town Board shall hold public hearings, review the applicable facts pertaining to the proposed Conditional Use, and apply the provisions and standards in Section 5 of this Ordinance. The Commission shall make a recommendation to the Town Board to deny, approve or approve with conditions the application. The Town

Board will approve the conditional use only after finding that its inclusion in this district, possesses a high likelihood of not creating problems with regard to nearby parcels of land or occupants thereof, and which are therefore permitted only subject to the fulfillment of conditions which effectively insure that no such problems will be created

1. One two-family structure. One private garage per dwelling unit not to exceed 90% of the total square footage of each dwelling unit.
2. Educational buildings, colleges, universities, including private music and dancing schools.
3. Institutions of a charitable or philanthropic nature, hospitals, clinics and sanitariums, libraries, museums, professional organizations, and fraternities, except those, which provide goods and services similar to a business.
4. Telephone, telecommunication, and electric transmission buildings or structures.
5. Wind generators for electrical power.
6. Community living arrangement, which has a capacity for 8 or fewer persons being served by the program provided it is located at least 2,500 feet from any other such facility.
7. Community living arrangement having a capacity for 9-15 persons being served by the program provided that it is located at least 2,500 feet from any other similar facility and that the design of the structure and landscaping is compatible with the surrounding neighborhood.
8. Community living arrangement having a capacity for 16 or more persons provided that it is located at least 2,500 feet from any other similar facility, and that it is adequately designed and landscaped to be in keeping with the neighborhood and to prevent an institutional appearance.
9. Home occupations and professional offices, when conducted solely by a member of the resident household that is entirely contained within the residence and is incidental to the residential use of the premises. Home Occupation and professional offices do not involve any external alteration that would affect the residential character of the building.

(D) REQUIREMENTS FOR PERMITTED AND CONDITIONAL USES

1. Maximum Building Height	35 feet
2. Minimum Building Front Yard Setback on Local Road	50 feet
➤ All front yard setbacks are to also refer to Section 10.1 of this Ordinance for setbacks on Arterial, Collector, and Local roads	
3. Minimum Front Yard Setback on Corner Lot	50 feet on each road
4. Minimum Building Rear Yard Setback	20 feet
5. Minimum Buildings Side Yard Setback	15 feet
6. Minimum Lot Width	100 feet
7. Minimum Lot Frontage on Public Road	100 feet
8. Bulb Minimum Lot Frontage on a Cul-de-Sac Road	50 feet
9. Minimum Lot Area – Single Family	40,000 sq. feet
10. Minimum Lot Area - Two (2) Family Dwelling	55,000 sq. feet
11. Accessory Buildings Minimum Side Yard Setback	5 feet
12. Accessory Buildings Minimum Rear Yard Setback	5 feet
13. Minimum Floor Area Per Family	1,200 sq. feet
14. Minimum Building Width	24 feet
15. Maximum Lot Size	2.99 acres

4.8 LOWLAND CONSERVANCY OVERLAY DISTRICT (C-1)

(A) PURPOSE AND INTENT LOWLAND CONSERVANCY OVERLAY DISTRICT ONE (C-1)

The purpose of the C-1 Overlay District is to provide a method of obtaining the goals and objectives of the Land Use Plan. The C-1 District is designed to: protect public health and safety, property values, general welfare of the community; protect property from the hazards of flood water, inundation of groundwater; and protect the community from costs which are incurred when development occurs in lowland areas. The intent of this district is to conserve areas which have physical limitations for development because of being in areas with potential for flooding, soils with low bearing capacity, soils that are wet, and other environmental considerations that indicates this land should be used for open land uses, agricultural uses, recreational uses and other uses which do not require construction of extensive buildings. This district exists as delineated on the zoning map and includes those soil types as listed in the Definitions Section of this Ordinance.

(B) PERMITTED USES

The following uses of land are permitted in this district.

1. Agricultural uses to include crop and pasture land when conducted in accordance with the Soil Conservation Service standards, but not including the erection of buildings or structures.
2. Harvesting of wild crops, such as wild rice, marsh hay, ferns, moss, berries, tree fruits and tree seeds.
3. Forestry and the management of forests.
4. Wildlife preserves.
5. The management of wildlife, including waterfowl, fish, and other similar lowland animals, and structures used solely in conjunction with these activities such as wildlife scrapes and ponds.
6. Hunting, fishing, and trapping.
7. Public and private parks, picnic areas, and similar uses.

8. Hiking trails and bridle paths.
9. Preservation of areas of scenic, historic, or scientific value.
10. Watershed conservation areas.
11. Parking areas.
12. Uses similar and customarily incident to any of the above uses.

(C) CONDITIONAL USES

Certain land uses require a Conditional Use Permit be reviewed by the Planning & Zoning Commission and approved by the Town Board prior to the use being established. The Planning & Zoning Commission and Town Board shall hold public hearings, review the applicable facts pertaining to the proposed Conditional Use, and apply the provisions and standards in Section 5 of this Ordinance. The Commission shall make a recommendation to the Town Board to deny, approve or approve with conditions the application. The Town Board will approve the conditional use only after finding that its inclusion in this district, possesses a high likelihood of not creating problems with regard to nearby parcels of land or occupants thereof, and which are therefore permitted only subject to the fulfillment of conditions which effectively insure that no such problems will be created.

1. Dams, reservoirs, ponds, and primary water storage facilities.
2. Commercial outdoor recreation facilities but not to include amusement parks, drive-in theaters and racetracks.
3. Power plants deriving their power from the flow of water, and transmission lines and other facilities accessory thereto.
4. Public Utilities lines and facilities including pipelines, telephone, telegraph, electric power, and other transmission lines.
5. Relocation of any watercourse.
6. Filling, drainage or dredging of wetlands, provided that this shall conform to the Shoreland Zoning Ordinance enacted by Rock County pursuant to 59.692 [Zoning of Shoreland on Navigable Waters] of the Wisconsin Statutes.

7. Removal of topsoil, peat, and sod for commercial use or sale.
8. Camping grounds open to the public.
9. Piers, docks, and boat houses.
10. Hunting and fishing clubs provided that the adjoining areas would not be adversely affected.
11. Sewage disposal treatment plants.
12. Agricultural accessory structures when they conform to Soil Conservation Service Standards and guidelines.

(D) REQUIREMENTS FOR PERMITTED AND CONDITIONAL USES

1. Minimum Lot Size	No minimum Lot Size
2. Maximum Structure Height	35 feet
3. Minimum Front Yard Setback	50 feet
<p>➤ <i>All front yard setbacks are to also refer to Section 10.1 of this Ordinance for setbacks on Arterial, Collector, and Local roads</i></p>	
4. Minimum Setback from High Water Mark	75 feet
5. Minimum Rear Yard Setback	50 feet
6. Minimum District Width	30 feet
7. Minimum Side Yard Setback	20 feet
8. Minimum Lot Width at Building Line	100 feet
9. Off-street Parking, Public Gathering	1 space per 5 seats if applicable or 1 space per 200 sq. ft. of building

(E) PROHIBITED USES

1. No structure or improvement may be built, or land used in this district unless it is a Permitted or an approved Conditional Use in this district.

4.9 HIGHLAND CONSERVANCY OVERLAY DISTRICT TWO (C-2)

A. PURPOSE AND INTENT OF HIGHLAND CONSERVANCY DISTRICT TWO (C-2)

The purpose of the C-2 Overlay District is to provide a method of obtaining the open space, natural resource, and the recreation goals and objectives of the Land Use Plan. The C-2 District is intended to provide for the preservation, protection, enhancement, and restoration of woodlands, scenic areas, marginal farm land, and areas with slopes in excess of 12%. It is also intended to help limit erosion and sedimentation; promote and maintain the natural beauty of the area while seeking to assure the preservation and protection of areas that have significant topography, natural areas, ground and surface water, potential recreation sites, wildlife habitat, and other natural resource characteristics that contribute to environmental quality. This district exists as delineated on the zoning map and includes those soil types as listed in the Definitions Section of this Ordinance.

B. PERMITTED USES

The following uses are permitted uses in this District:

1. Forest and woodland crop management.
2. Farming and related agricultural uses when conducted in accordance with Soil Conservation Service Standards.
3. Installation of soil and water conservation structures.
4. Parks and recreational areas, arboretums, and botanical gardens.
5. Forest preservation, wildlife reservations, and conservation projects.
6. Installation of an antenna on a communication tower when consistent with the number of antennas authorized under the towers conditional use permit.

C. CONDITIONAL USE

Certain land uses require a Conditional Use Permit be reviewed by the Planning & Zoning Commission and approved by the Town Board prior to the use being established. The Planning & Zoning Commission and Town Board shall hold public hearings, review the applicable facts pertaining to the proposed Conditional Use, and apply the provisions and standards in Section 5 of this Ordinance. The Commission shall make a recommendation to

the Town Board to deny, approve or approve with conditions the application. The Town Board will approve the conditional use only after finding that its inclusion in this district, possesses a high likelihood of not creating problems with regard to nearby parcels of land or occupants thereof, and which are therefore permitted only subject to the fulfillment of conditions which effectively insure that no such problems will be created

1. Stream course changing, waterway construction or enlargement, dams, and changing of natural drainage ways.
2. Radio, television, communication transmitters, or relay towers and facilities.
3. Telecommunication towers and any antenna on a tower that does not have a conditional use permit.
4. Wind generators for electrical power.

D. REQUIREMENTS FOR PERMITTED AND CONDITIONAL USES

1. Maximum Structure Height	35 feet
2. Minimum Front Yard Setback	50 feet
➤ <i>All front yard setbacks are to also refer to Section 10.1 of this Ordinance for setbacks on Arterial, Collector, and Local roads</i>	
3. Minimum Rear Yard Setback	25 feet
4. Minimum Side Yard Setback	20 feet
5. Minimum Accessory Structure Setback	10 feet
6. Off-street Parking, Public Gathering	1 space per 200 sq. ft. of structure or 1 space per 5 anticipated users at maximum usage of facilities

E. PROHIBITED USES

1. No structure or improvement may be built, or land used in this district unless it is a Permitted use or an approved Conditional Use in this district.

4.10 MOBILE HOME PARK OVERLAY DISTRICT (MHP)

The purpose of the Mobile Home Park Overlay District is to provide a means of obtaining the residential goals and objectives of the Development Guide. The intent of the MHP District is to provide for the location of mobile home parks and establish regulations governing their construction and use for the health and well-being of the residents of the community. The Mobile Home Park Overlay District shall not be allowed in the Exclusive Agricultural District One.

A. PROCEDURES AND APPLICATIONS

1. **Approvals Required** – No person shall construct, expand, or operate a Mobile Home Park within the Town unless he/she holds a valid license.

a. Any person owning or controlling a Mobile Home Park in existence on the effective date of this ordinance may apply for and receive an annual license for his/her existing park or camp by following Subsection (3)(d) or (3)(e) of this Section.

b. The Town Clerk/Treasurer shall issue an initial license only after the following actions have taken place:

1) The land has been zoned as a Mobile Home Park Overlay District over a residential base district by the Town Board.

2) The applicant completes application form and submits it to the Town Clerk/Treasurer or Zoning Administrator/Building Inspector together with the required license fee.

3) The Planning & Zoning Commission reviews and recommends approval to the Town Board.

4) The Town Board approves the license.

2. **Fees and Expiration Date**

a. **Fee Schedule**

1) Initial Mobile Home Park License Fee	TBD by Town Board by resolution
2) Final Review Fee	TBD by Town Board by resolution
3) Annual Mobile Home Park License Fee	TBD by Town Board by resolution

4) Mobile Home Park License Transfer Fee	TBD by Town Board by resolution
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- b. **Expiration** – All such licenses are to expire on the 30th day of June of each year and shall be renewed annually. There shall be no pro-ration of fees.

3. Initial License Application

- a. Application for an initial license shall be made to the Town Clerk/ Treasurer or Zoning Administrator/Building Inspector on an initial license application form. Fees as provided in Subsection (2)(a)(i) above are required prior to taking action on each of the approval steps listed herein.
- b. **Preliminary Plan** – The applicant shall apply for preliminary plan approval to the Planning & Zoning Commission. Such applicant shall submit six (6) copies of the Preliminary Plan. Such preliminary plan shall be drawn on a topographic map with a scale of at least one inch equals 100 feet showing two foot contours, the area, location and proposed layout of lots, roadways, buffer strips, and park areas. Approval by the Committee shall be in concept only, which will enable the applicant to prepare final plan.
- c. **Final Plan** – Upon approval by the Planning & Zoning Commission of the preliminary plan, the applicant shall submit to the Planning & Zoning Commission a review fee which shall be determined by the Town Board and six (6) copies of the general development plan which shall include:
 - 1) Three (3) copies of a Certified Survey Map, subdivision plat, or plat of survey of the property showing existing features of the mobile home park.
 - 2) A complete plan of the park or camp drawn to a scale of not less than 100 feet per inch.
 - 3) The number, location and dimensions of all Mobile home lots.
 - 4) The location and width of roadways, walkways, easements, setback lines, planting strips and recreation areas.
 - 5) The location of auto parking areas and service buildings, if provided.
 - 6) The location and size of utility service lines for water, storm and sanitary sewers, electrical, telephone, fuel and if provided, cable television service.

- 7) Plans and specifications of all buildings and other improvements constructed or to be constructed within the park or camp, including a detailed sketch of a typical mobile home lot.
- d. Upon submission of the final plan to Planning & Zoning Commission, the Commission shall set a public hearing on the final plan and after hearing any interested parties and staff information, the Planning & Zoning Commission shall make a recommendation and report to the Town Board, who shall also hold a public hearing, concerning such plan after determining the following:
- 1) That the uses, values, and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the intended park.
 - 2) That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.
 - 3) That adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public road.
 - 4) **Approval by Town Board** – After receiving the final plan and the recommendation and report from the Planning & Zoning Commission, and holding a public hearing the Town Board may grant approval of the MHP Overlay District and thereafter grant the initial license.
 - 5) Such license shall not be issued until the requirements of this section have been fulfilled. After the license is issued, the Town Clerk is authorized to issue an initial license upon payment of the required fee.
 - 6) **Procedure After License Granted** - Upon approval of a MHP, the owners of the land shall cause to be recorded with the Register of Deeds for Rock County, Wisconsin a Certified Survey Map or Subdivision Plat pursuant to Chapter 236 [Platting Lands and Recording and Vacating Plats] of the Wisconsin Statutes of the gross land area including the final approved plans and the deeding to the Town those lands and easements called for in the plans submitted to the Planning & Zoning Commission and Town Board and containing a statement that the land is to be developed pursuant to the approved license. Upon the submission of proof of such recording to the Town Clerk/Treasurer, said Clerk/Treasurer shall issue the initial license allowing said

owners or their successors to develop the land according to the conditional use permit and recorded plans. Construction pursuant to such license must commence within six months of the date of the license issuance or the license shall become null and void.

- e. **License Application** – Annual License. The applicant shall apply to the Town each year and the annual license shall be subject to the approval of the Town Board. The application for such annual license shall be accompanied by a current County Health Department License, a current State of Wisconsin License, and a fee as provided in (2) (a) (iii) above.
- f. **Transfer of License** – A transfer of license application shall be applied for and may be approved by the Town Board in the same manner as an application for a renewal license. The fee for such transfer license is provided in Subsection (2)(a)(iv) above.

4. **Administration**

- a. **Zoning Administrator/Building Inspector** – It shall be the responsibility of the Zoning Administrator to enforce the provisions of this ordinance by authorizing and directing inspections to be made of all mobile home parks.
- b. **Violations** – Whenever the Zoning Administrator/Building Inspector determines violations of pertinent regulations exist, he shall notify the licensee of such alleged violations. Such notice shall:
 - 1) Be in writing.
 - 2) Include a statement of the violations enumerated.
 - 3) Allow a reasonable time for the performance of any act it requires to correct such violations but not to exceed 90 days.
- c. **Revocation of License** – Upon failure to comply with such violation notice or upon complaint by any citizen of the Town, the license for such park or camp is subject to revocation by the Town Board as provided in 66.058(2)(d) [License and Revocation or Suspension] of the Wisconsin Statutes unless the alleged violation is corrected within the period specified by Town Board.
- d. **Emergency Order** – Whenever the Zoning Administrator/Building Inspector finds that an emergency exists which requires immediate action to protect the public health,

safety and/or welfare, he may without notice or hearing, issue an order reciting the existence of such an emergency and then in order to meet the emergency suspend the license. Said order shall be in writing, shall be notwithstanding any other provisions of this ordinance, and shall be effective immediately. Any person to whom such an order is directed shall comply therewith immediately or be subject to the revocation of the mobile home park license.

5. Duty of License Holder

- a. It shall be the duty of the license holder to file with the Town Clerk/Treasurer a monthly report containing the following information on a form sheet:
 - 1) Name of Mobile Home Park, name and address of owner, agent, or operator.
 - 2) A tabulation of mobile home park occupancy listing lot designation, occupants' names, monthly tax and date of departure or arrival.
- b. Within five days of the arrival of each new mobile home occupant, the owner shall submit in duplicate to the Town Assessor Form PA-118 of the Wisconsin Department of Revenue for a Mobile Home.
- c. **Restrictions on Occupancy of Mobile Homes** – No mobile home shall be occupied for dwelling purposes unless it is properly placed on a mobile home lot and connected to water, sewerage, electrical and other utilities and complies with all provisions of this ordinance.

6. General Provisions

- a. **Applicability** – All additions to MHP District added to after the effective date of this ordinance shall conform to and be governed by the provisions of this ordinance. No area shall be rezoned to Mobile Home Park District unless it is planned for residential use on the Land Use Transportation and Farm Land Preservation Plan Map. Every mobile home park developed and governed by this ordinance shall be licensed.
- b. It shall be unlawful to permit a mobile home to be located in a park or camp unless it is placed in a designated stand, on an improved lot, in a licensed park.
- c. **Parking of Mobile Homes**

- 1) Only one mobile home shall be placed on a lot except that an unoccupied travel trailer may be parked behind the setback line of the owner's yard to the rear of the principal building.
- 2) Each mobile home shall abut upon a roadway within an approved park.
- d. **Non-Residential Uses** – No part of any park shall be used for non-residential purposes except for the management and maintenance of the park or camp as approved by the Town Board.
- e. **Signing** – No signs shall be permitted except the following as provided in Section 14 of this Ordinance.

7. Standards

- a. **Minimum Park Size** – There shall be a minimum of 10 acres of land developed as a Mobile Home Park Overlay District (MHP) in the initial development.
- b. **Minimum Number of Lots** – There shall be a minimum of (10) ten mobile home lots completed and ready for occupancy before first occupancy is permitted.
- c. **Length of Residential Occupancy** – No lot shall be rented for residential use of a mobile home in any such MHP except for periods of thirty (30) days or more.
- d. **Compliance with Code Standards** – No mobile home shall be admitted in any mobile home park unless it can be demonstrated that it meets all the requirements of U.S. Department of Housing and Urban Developments' Manufactured Home Construction Standards.
- e. **Minimum Lot Width and Setback Standards**

Building Setback Standards

1) Front Yard Setback – Rural Residential	50 feet
➤ <i>All front yard setbacks are to also refer to Section 10.1 of this Ordinance for setbacks on Arterial, Collector, and Local roads</i>	
2) Side Yard Setback – Rural Residential	15 feet
3) Rear Yard Setback – Rural Residential	35 feet
4) Corner Lot Side Yard Setback on Road – Rural Residential	50 feet on each road

5) Minimum Lot Width – Rural Residential	100 feet
6) Minimum Lot Area – Rural Residential	40,000 sq. feet
7) Minimum Accessory Side Yard Setback – Rural Residential	5 feet

- f. **Parking** – At least two (2) off-street hard surfaced parking spaces shall be provided on each mobile home lot. The size of each space must be at least 10 feet by 20 feet. Street parking on both sides of the street shall be permitted if the roadway width is at least 36 feet wide. Street parking shall be permitted on one designated side only if the roadway width is at least 30 feet wide.
- g. **Screening** – There shall be provided a screening buffer strip along the boundary of the mobile home park. Such screening shall be at least five (5) feet in width and ten (10) feet in height. Such strip shall be a densely planted hedge or shrubbery so as to effectively cause a visual barrier and still allow a breeze to pass.
- h. **Recreation Requirements** – Not less than ten percent (10%) of the total gross park area shall be devoted to recreational facilities or open space. Recreational facilities shall be convenient to the project center.
- i. **Tenant Storage** – One storage building accessory to a mobile home will be permitted on a mobile home lot provided that the storage building does not exceed one hundred twenty eight (128) square feet and does not exceed ten (10) feet in height. Such storage building shall be fully enclosed and located on the mobile home lot.
- j. **Maintenance Equipment Storage** – One storage building for mobile home park maintenance equipment will be permitted provided that the storage building does not exceed five hundred (500) square feet and does not exceed ten (10) feet in height. Such storage building shall be fully enclosed. One maintenance equipment storage building per mobile home park.
- k. **Fuel Supply** – All fuel shall be distributed in conformity with the rules and regulations of the Department of Commerce.
- l. **Additions and Alterations**
 - 1) **Permit Required** – A permit issued by the Zoning Administrator/Building Inspector shall be required before any construction on a mobile home lot or any structural addition or alteration to the exterior of a mobile home. No permit is required for addition of steps, awnings, skirting, windows, and doors.

- 2) **Size of Expansion** – No addition to a mobile home shall be greater than the area in square feet of the existing mobile home. No addition or alteration to the mobile home shall exceed in height the height of the existing mobile home.
 - 3) **Conform to setbacks** – Any addition to a mobile home shall be deemed a part of the mobile home and shall have the same setbacks as the existing mobile home.
 - 4) **Skirting Required** – Vented skirting of non-flammable material for mobile homes is required. Areas enclosed by such skirting shall be maintained so as not to provide a harborage for rodents or create a fire hazard. It is recommended that insulation be provided inside the skirting to prevent the freezing of pipes.
- m. **Utilities** shall be installed underground and shall meet State of Wisconsin Statutes and Administrative Codes.
- 1) **Electrical Requirements**
 - a) Each mobile home and travel trailer lot shall be connected to the park electrical wiring system by underground cable and by approved receptacle, disconnecting means, and over current protective equipment. The minimum service per each mobile home lot shall be 120-240 volts AC, 100 amperes.
 - b) Adequate lights shall be provided in mobile home parks to illuminate streets, driveways, and walkways, for the safe movement of vehicles and pedestrians at night. A minimum of one-foot candle shall be provided for safe pedestrian and vehicle movement.
 - 2) **On-site or Public Sewer Service** – All mobile homes shall be served by common sewer. Each mobile home lot shall be equipped with at least a three (3) inch sewer connection so located as to provide a suitable connection from the home with a continuous grade, not subject to surface drainage.
 - 3) **Water** – Common water shall be provided by separate lateral at each mobile home lot.
- n. **Mobile Home Stand, Patio, and Tie Downs**

- 1) A mobile home stand shall be continuous 4 inch concrete single slab equal to the size of the trailer with tie downs every ten feet.
- 2) The mobile home stand shall be provided with six anchors and tie-downs such as cast-in-place concrete "dead man" eyelets embedded in concrete foundations or arrowhead anchors or other devices securing the mobile home. Anchors and tie-downs shall be placed at least at each corner of the mobile home stand and at the middle of each side, and each shall be able to sustain a minimum tensile strength of two thousand eight hundred (2,800) pounds.

o. **Roadways**

- 1) All roadways constructed in a MHP shall be hard surfaced built according to Town/County Road Standards.
- 2) The minimum pavement width of roadways shall be 22 feet. The minimum pavement diameter of cul-de-sacs shall be 140 feet.
- 3) The alignment and gradient shall be properly adapted to topography, to safe movement of types of traffic anticipated, and to satisfactory control of surface water and ground water.
- 4) The names of roadways within the park shall not duplicate the names of streets within Rock County.

p. **Lot Markers** – The limits of each MHP lot shall be clearly marked on the ground by permanent flush stakes, markers and have a unique number and street name that is not duplicated within Rock County.

q. **Fences and Hedges** – Fences and hedges may be permitted provided they do not exceed a height of three feet in the front yard or corner side yard and six feet in height in all other yards.

r. **Garbage and Rubbish Storage Areas** – Garbage and rubbish shall be stored in fly-tight, water-tight, approved containers stored within a completely enclosed building or may be permitted outside the building provided that such storage area is effectively screened from view.

- s. **Service building For Travel Trailer Camps** – There shall be at least one (1) service building in any travel trailer camp to provide sanitation and laundry facilities.
 - 1) Location, Construction and Maintenance. Service buildings, easily accessible to all travel trailer lots shall be made of permanent construction in accordance with Rock County and State of Wisconsin Codes. The service building shall maintain a minimum temperature of 60 degrees F. whenever the camp is open for business.
 - 2) Plumbing and Electrical Facilities. Plumbing and electrical facilities in service buildings shall be as set forth in State of Wisconsin Administrative Standards.
- t. **Emergency Shelter** – Each mobile home and travel trailer park shall have a emergency shelter which shall be easily accessible to all park residents for their exclusive use. Such centers shall include: Kitchen facilities; rest rooms facilities for men and women; meeting room space of at least 1,000 square feet; a sub-grade structure which shall be built to a size which will provide adequate protection to all park residents in the event of severe weather.
- u. The Town Board may require that a letter of credit or cash deposit be executed by the mobile home park developer to insure that all required improvements will be made.

4.11 SPECIAL PURPOSE DISTRICT (SP)

A. PURPOSE AND INTENT OF SPECIAL PURPOSE DISTRICTS (SP)

The purpose of this district is to provide a means of obtaining the goals and objectives of the Development Guide. The SP District is intended to provide for those uses, which create, or could present special problems, hazards or other circumstances with regard to the use of land. This District is to include those uses of land which require large expanses of land; those which afford hazards to health, safety, or other aspects of the general welfare; those for which it is desirable to have a limited number of a given land use within the community.

B. PERMITTED USES

The following uses are permitted in this district:

1. Installation of an antenna on a communication tower when consistent with the number of antennas authorized under the towers conditional use permit.

C. CONDITIONAL USES

Certain land uses require a Conditional Use Permit be reviewed by the Planning & Zoning Commission and approved by the Town Board prior to the use being established. The Planning & Zoning Commission and Town Board shall hold public hearings, review the applicable facts pertaining to the proposed Conditional Use, and apply the provisions and standards in Section 5 of this Ordinance. The Commission shall make a recommendation to the Town Board to deny, approve or approve with conditions the application. The Town Board will approve the conditional use only after finding that its inclusion in this district, possesses a high likelihood of not creating problems with regard to nearby parcels of land or occupants thereof, and which are therefore permitted only subject to the fulfillment of conditions which effectively insure that no such problems will be created.

1. Refuse disposal sites, dumping grounds, sanitary landfill operations, or similar uses; with the specific provision that setbacks, screening, protective fencing, or some combination of these be provided in a manner adequate to protect the general public from any and all nuisances, hazards or other harmful conditions.
2. Facilities for the production, mining, processing or storage of concrete, blacktop, asphalt, or other paving or road surfacing or building materials.
3. Airports open to the public, hangars, or accessory structures.

4. Cemeteries.
5. Race tracks, sewerage treatment facilities.
6. Accessory structures required by the principal use as part of the original application.
7. Junkyard and automobile salvage yards.
8. Sand and gravel quarry and process operations. If on-site mining or processing operations are not carried out continuously for one year at any location, such operations shall be considered to have been abandoned, and, prior to any further excavation or processing, a new conditional use permit shall be required. The sand and gravel quarry shall apply for and receive a Non-Metallic Reclamation Permit from the Rock County Land Conservation Department. Any land rezoned from Exclusive Agricultural District One to Special Purpose for a sand and gravel quarry shall be restored to an agricultural use as a condition of the rezoning.
9. Telecommunication towers and any antenna on a tower that does not have a conditional use permit.
10. Wind generators for electrical power.

D. REQUIREMENTS FOR CONDITIONAL USES

1. Minimum Lot Size	5 Acres
2. Minimum Front Yard Setback from Public Road	50 feet
➤ <i>All front yard setbacks are to also refer to Section 10.1 of this Ordinance for setbacks on Arterial, Collector, and Local roads.</i>	
3. Minimum Side Yard Setback	50 feet
4. Minimum Rear Yard Setback	50 feet
5. Off Street Parking	1 space per 5 seats or 1 space per 5 anticipated uses at maximum usage of facility
6. Sand and Gravel Operations:	
a) Minimum Lot Size	5 acres
b) Setback from Existing Street or Highway	100 feet
c) Setback from Right-of-Way Utility	50 feet

d) Setback from Boundary of Zoning district	100 feet
e) Fencing and Screening – Any mining operation within one-half mile of any residential district shall have a chain link or similar fencing no less than six (6) feet high around the entire mining site	
f) No dumping of waste products or by-products shall be allowed anywhere on the site	
g) Restoration Plan to be developed by operator and reviewed by the Planning & Zoning Commission and approved by the Town Board	
h) Minimum Accessory Side Yard Setback	50 feet
i) If a site is located on a Town road or such material traverses a Town road, no Conditional Use Permit shall be issued unless the Town Board is assured that any damages to the road caused by the applicant will be repaired or reconstructed at the applicant's full expense by a letter of credit, bond or other acceptable financial assurance that will protect the Town against any expense due to the inability or refusal of the applicant to repair any damage to the road	

E. PROHIBITED USES

No structure or improvement may be built, or land used in this district unless it is a Permitted use or an approved Conditional Use in this district.

4.12 TOWER AND ANTENNA OVERLAY DISTRICT – (ANT)

A. PURPOSE AND INTENT TOWER AND ANTENNA OVERLAY DISTRICT – (ANT)

The purpose of the ANT district is to provide a means obtaining the goals and objectives of the Development Plan. The ANT District is designed to protect public health, safety and general welfare of the citizens of the community in mitigating the impact of tower installations on the community. The ANT District provides a balance between the federal interest (Section 704 Telecommunications Act of 1996) concerning the construction, modification and placement of telecommunications towers and antennas for use in providing personal cellular service (PCS) and the legitimate interest of the community in regulating local zoning. The intent of this ordinance is to protect land uses from the potential adverse impacts of antennas and towers; encourage collocation of new and existing antenna and tower sites as a means to minimize the total number of towers within the county; encourage the proprietors of antennas and tower facilities to configure them in a way which would minimize adverse visual impact through design, landscaping, visual screening and camouflaging techniques; consider the health and safety of antennas and towers; avoid potential damage to property or individuals due to tower failure through engineering; and consider collocation on existing towers within adjacent counties and municipalities which may provide adequate coverage for areas within and adjacent to the town.

B. DEFINITIONS

1. **Antenna** – Any structure or device used for the purpose of collecting or transmitting electromagnetic waves, including but not limited to directional antennas, such as panels, microwave dishes, and satellite dishes, and omnidirectional antennas, such as whip antennas.
2. **Co-location** – A means of the use of a single support structure and/or site being used by more than one communications provider.
3. **Commercial Wireless Telecommunications Services** – License commercial wireless telecommunications services including cellular, personal communication services (PCS) specialized radio (SMR), enhanced specialized mobile radio (ESMR), paging, and similar services that are marketed to the general public.
4. **Equipment Building, Shelter, or Cabinet** – a structure used to house equipment used by providers to house equipment.

5. **Equipment Enclosure** – A small structure, shelter, cabinet or vault used to house and protect equipment necessary for processing electronic signals. Associated equipment may include air conditioning and emergency generators.
 6. **FAA** – Federal Aviation Administration.
 7. **FCC** – Federal Communications Commission.
 8. **Lattice Tower** – A self-supporting structure that consists of a network of a crossed network of braces, forming a tower that is usually, but not always, triangular or square in cross-section.
 9. **Monopole** – A support structure that consists of a single pole sunk in the ground and/or attached to a foundation.
 10. **Pre-existing Tower/Antenna** – Any tower or antenna for which a building permit or conditional use permit has been properly issued prior to the effective date of this ordinance.
 11. **“Readily Visible”** – An object that stands out as a prominent feature of the landscape when viewed with the naked eye.
 12. **Security Barrier** – Any structure or device placed for the primary purpose of keeping persons or other unwanted element outside a given area.
 13. **Support Structure** – The structure to which an antenna or other necessary associated hardware is located.
 14. **Tower** – Any ground or roof mounted pole, spire, structure, or combination thereof taller than 15 feet, including support lines, cables, wires, braces, and mast intended primarily for the purpose of mounting an antenna, meteorological device, wireless communications (including cellular) or similar apparatus above grade.
 15. **Wireless Communications Facility (WCF)** – An unstaffed facility for the transmission and reception of radio or microwave signals used for commercial communications. The term “wireless communications facility” is synonymous with the terms “telecommunications facility” and “communications facility”.
- C. PERMITTED USES.**

A permit is required from the Town of Magnolia for the following permitted use:

1. New or replacement antennas being located which shall be placed on a tower which has obtained a Conditional Use Permit for a tower under this ordinance.

D. CONDITIONAL USES.

Certain land uses require a Conditional Use Permit be reviewed by the Planning & Zoning Commission and approved by the Town Board prior to the use being established. The Planning & Zoning Commission and Town Board shall hold public hearings, review the applicable facts pertaining to the proposed Conditional Use, and apply the provisions and standards in Section 5 of this Ordinance. The Commission shall make a recommendation to the Town Board to deny, approve or approve with conditions the application. The Town Board will approve the conditional use only after finding that its inclusion in this district, possesses a high likelihood of not creating problems with regard to nearby parcels of land or occupants thereof, and which are therefore permitted only subject to the fulfillment of conditions which effectively insure that no such problems will be created.

1. Towers shall be a conditional use in the following zoning districts:
 - General Agriculture District Two (A-2)
 - Small-Scale Agriculture District Three (A-3)
 - Highland Conservancy Overlay District Two (C-2)
 - Special Purpose District (SP)

E. CONDITIONAL USE PERMITS

APPLICATION INFORMATION – In order to secure evidence upon which to base their actions, the Planning & Zoning Commission and Town Board may require, in addition to the information required for a Permit Application, the submissions of plans of buildings, arrangement of operations, plats of grounds showing location and elevation of buildings, stockpiles, wells, septic systems, equipment storage, towers, fences or screens, parking areas, traffic access, fill areas, flood proofing measures, landscaping and any other pertinent information that may be necessary to determine if the proposed use meets the requirements of the ordinance.

Conditional Use Permits are assigned to a lot or a particular location on the lot, not the person who owns the land. Conditional Use Permits are revocable by a majority vote of the Town Board if the conditional use is not actively utilized for a period of one (1) year, conditions of approval are not being met, or the conditional use is expanded without

Planning & Zoning Commission review and recommendation to the Town Board for approval. In the event that the Conditional Use Permit is not actively utilized for a period of one (1) year after the date of issuance it shall be automatically revoked at the end of said one-year period.

1. Application Fee – A fee of \$2,500 (adjusted periodically by Town Board resolution) shall accompany and be submitted with the completed Conditional Use Permit Application.

Prior to the Conditional Use Permit Application Public Hearing, the Planning & Zoning Commission Designee shall forward a copy of the Conditional Use Application to the Town Clerk/Treasurer of Magnolia. The Planning & Zoning Commission Designee shall also provide the Town Clerk with the date, time and place of the Public Hearing.

F. REQUIREMENTS FOR PERMITTED AND CONDITIONAL USES

1. **Utilization of Existing Structures** – No tower shall be approved and/or issued a permit unless the applicant demonstrates that the equipment planned for a new tower cannot be accommodated on an existing or approved tower or structure. In the event the Town Board determines that it is necessary to consult with a third party considering the factors listed below, all reasonable costs and expenses associated with such consultation shall be borne by the applicant. The applicant may provide names of consultants, which the applicant believes, are qualified to assist in resolving the issues. Such demonstration may include one or more of the following reasons:
 - a. No existing towers or structures are located within the geographic region required to meet the applicant’s engineering requirements.
 - b. Existing towers or structures are not of sufficient height to meet the engineering requirements.
 - c. Existing towers or structures do not have the structural capacity to support the applicant’s proposed antenna and related equipment and the existing tower or structure cannot be reinforced, modified or replaced to accommodate planned equipment at a reasonable cost.
 - d. The planned equipment would cause interference affecting the usability of the other or existing or planned equipment at the tower or the existing antennas would cause interference with the applicant’s proposed antenna and the interference cannot be prevented at a reasonable cost.

- e. The fees, cost or contractual provisions required by the owner to share an existing tower or structure are cost prohibitive.
2. **Collocation** – Any proposed tower shall be designed structurally, electronically and in all respects to accommodate the applicant’s antenna and comparable antenna for up to two additional uses. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.
3. In the event of collocation, the owner of the tower or structure shall offer space for additional antennas at current market rates.
4. **Construction** – All towers constructed, erected, modified or located within the jurisdictional limits of this ordinance shall comply with all applicable state and local building codes, as well as applicable standards for towers that are published by the Electronic Industries Association.
5. **Tower Design** – Proposed or modified towers shall blend in with the surrounding environment so as to not be “readily visible”, except as may be required by the Federal Aviation Administration (FAA) or the Federal Communications Commission (FCC). Any associated utility buildings shall blend in with the character of the district in which it is located. All towers shall be of “mono-pole” construction unless engineering documentation is provided from a licensed professional engineer stating that such a design is not structurally possible. In the event that a “mono-pole” design is not feasible, options for alternate tower designs shall be brought before the Planning & Zoning Commission for a design review and recommendation to the Town Board for approval. No towers utilizing guy wires shall be permitted.
6. **Building Mounted Antennas** – Antennas mounted on buildings or other structures not built specifically for the purpose of mounting communications antennas shall meet the following criteria:
 - (a) Height – No antenna, including all mounting structures, lights and any additional equipment shall exceed ten (10) feet above the roof surface upon which it is mounted.
 - (b) Design – No more than four non-reflective panel antennas shall be installed per provider. The total area of antennas per provider shall not exceed 1,440 square inches and no single antenna shall exceed 480 square inches.

(c) All antennas and support structures shall be screened from view and be architecturally compatible with the building.

(d) All equipment enclosures shall be located within the building in which the facility is placed or located underground if site conditions permit. All equipment enclosures shall be architecturally compatible with the building.

7. **Lighting** – Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. When lighting is required, it shall be designed to cause the least disturbance to the views and property owners as possible.
8. **Signage** – No signs or billboards, other than warning or equipment information signs, shall be located on any tower.
9. **Security and Landscaping** – Ground mounted equipment and utility buildings shall be placed underground if site conditions permits and if technically feasible and screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and compliments the character of the surrounding area. The base of the tower and associated buildings shall be fenced with materials impervious to sight and secured so that it is not accessible to the general public. Fencing shall not exceed six (6) feet in height and shall be painted or coated in non-reflective material.
10. **Setbacks** – Towers shall be setback from adjacent property lines, easements and roadways a minimum of 105 percent of the towers height, including antennas and lights. When a portion of the parcel is being leased for the tower, the boundary of the leased area shall be considered the property line. Appurtenant equipment and buildings shall comply with the requirements of the underlying zoning district in which it is located.
11. **Height Restrictions** – The maximum height of a proposed tower shall be based on the following criteria:
 - Up to 180 feet (mono-pole towers only)
 - 181 to 300 feet (mono-pole and self-supporting towers only)

All towers shall be engineered to accommodate a minimum of three collocating antenna users.

12. **Separation between towers** – Separation distances between towers shall be measured by a straight line between the base of an existing tower and the base of a proposed tower. No proposed tower shall be permitted to locate within 5,280 feet (one statute mile) from an existing tower, unless for reasons beyond the applicant’s control, such as unusual or unique topography, no other option is available. This includes distances measured from towers outside the jurisdiction of this ordinance.
13. **Interference** - The towers and antennas shall be shielded, filtered and grounded in a manner consistent with FCC and the Electronic Industries Association guidelines so as to minimize the possibility of interference with locally received transmissions. Additionally, the owner and operator of such towers shall execute an agreement holding the Town of Magnolia harmless for any transmission or reception interference caused by such tower
14. **Obstruction Marking** – All towers shall comply with the “Obstruction and Marking” requirements of the FAA in cooperation of the FCC. Where “Dual Lighting Systems” are suggested, it shall be mandatory that white strobe lighting be used only during daylight hours and only red lights shall be utilized at night.
15. **Inspections** – All towers may be inspected once a year by the local Zoning Administrator/Building Inspector to determine compliance with this and other ordinances and regulations. Deviation from original construction parameters for which the permit was issued shall constitute a violation and will be evaluated by the Board of Review for potential tower removal.

G. REMOVAL AND ABANDONMENT OF ANTENNAS AND TOWERS

Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned. The owner of such antenna or tower shall remove the tower, antennas, associated structures and buildings within 90 days of receipt of notice from the town notifying the owner of such abandonment. If the owner wishes to resume use of the tower or antenna after such time has passed, the owner shall need to repeat the process and review for a Conditional Use Permit. If a Conditional Use Permit is denied the owner has 90 days to remove the tower, antennas, associated structures and buildings. Upon removal, the area on which the tower and buildings were located shall be restored to its original appearance. If the tower, antennas, associated structures, and buildings are not removed within the said 90-day period, the town at the owner’s expense shall remove the structures. If there are two or more users of a single tower, then this provision shall not become effective until all users cease operation.

1. Security For Removal – The Tower owner(s) and provider(s) shall provide the Town of Magnolia, prior to the issuance of the Conditional Use Permit, a performance bond in an amount as determined by the consultant at the time of application to guarantee that the tower facility will be removed when no longer in operation. The Town of Magnolia will be named as obligee in the bond and must approve the bonding company.

H. SUBMITTAL REQUIREMENTS

Applications for towers shall include the following:

A report from a qualified and licensed professional engineer that includes:

1. A complete plan for countywide coverage of the provider's antenna locations for existing and proposed towers.
2. A complete site plan including the following:
 - a. Tower height and design including a cross section and elevation.
 - b. Plan view of site including locations of tower and support structure(s), equipment buildings, security structures, vegetation, property boundaries, access road(s) and other significant features.
 - c. Documents the height above grade for all potential mounting positions and for collocated antennas and the minimum separation distances between antennas;
3. A complete list including the following:
 - a. Describes the tower's capacity, including the number and type of antennas that it can accommodate;
 - b. Documents what steps the applicant will take to avoid interference with established public safety telecommunications;
 - c. Includes an engineer's stamp and registration number; and
 - d. Includes any additional information needed to evaluate the compliance of the request.
 - e. Proof that the proposed tower complies with the regulations set forth by the Federal Aviation Administration (FAA).

- f. Proof that the proposed tower complies with the regulations set forth by the Federal Communications Commission (FCC).
- g. Proof from a qualified and licensed professional engineer that the tower meets the aforementioned structural and electrical standards.

I. ANNUAL INFORMATION REVIEW REPORT

The purpose of the Annual Information Review Report is to:

Provide Magnolia Township with accurate current information concerning the tower owner(s) and provider(s) who offer or provide wireless communication services within Magnolia Township; Provide information relating to the wireless communication tower facilities operated or utilize within Magnolia Township; To assist Magnolia Township in the enforcement of this ordinance, and to assist Magnolia Township in monitoring compliance with Local, State and Federal laws. The Annual Information Review Report pertains to and is required for both new towers and towers established before the implementation of this ordinance.

1. Annual Information Review Report – All wireless communications facility owners and providers, of any new or existing wireless communications facility, shall submit annually on or before January 1 of each year, to Magnolia Township, a Wireless Communications Facility Annual Information Review Report. The Annual Report shall include the owner and operator name(s), addresses, phone number(s), contact person(s), annual review fee, proof of bond, proof of insurance and any other appropriate information deemed necessary by Magnolia Township. Tower owners and operators shall supply the number of co-location positions designated, occupied or vacant. This information shall be submitted on a Magnolia Township Annual Information Report form, and after review, shall become evidence of compliance to this ordinance.
2. Annual Information Review Report Fee – Following the initial conditional use approval, every year thereafter the facility owner shall submit, on or before January 1 of each year, to Magnolia Township, the annual review fee of Two Hundred Dollars (\$200.00) per tower site. The fee submittal is the responsibility of each provider or carrier. Failure to provide the information requested in the Annual Information Review Report shall result in a forfeiture of Three Hundred Dollars (\$300.00) per day until the information is provided to and received by Magnolia Township. Existing tower owners and providers shall submit the annual Two Hundred Dollar (\$200.00) Annual Information Review Report Fee beginning May 24, 2006. The fee submittal is the responsibility of each provider or carrier. The fees shall be adjusted by resolution by

the Town Board. Failure to provide the information requested in the Annual Information Review Report shall result in a forfeiture of Three Hundred Dollar (\$300.00) per day until the information is provided to and received by Magnolia Township.

Technological Change – This ordinance recognizes that Wireless Communications Facilities and communication technologies in general are currently subject to rapid change. Innovations in such things as switching hardware and software, transmission/receiving equipment, communications protocols, and development of hybrid cable/wireless systems may result in reducing the impacts of individual facilities and to render specific portions of this ordinance obsolete. Therefore, Magnolia Township shall review this ordinance at least once every five (5) years and make appropriate amendments to this ordinance.

SECTION 5.0 CONDITIONAL USE PERMITS

5.1 GENERAL PROVISIONS

Any use listed as a Conditional Use in this Ordinance shall be permitted only upon application in duplicate to the Town Clerk/Treasurer or Zoning Administrator/Building Inspector, review and recommendation by the Planning & Zoning Commission and issuance of a Conditional Use Permit by the Town Board. A Conditional Use Permit shall be issued only upon satisfaction of the requirements listed herein, in addition to all other requirements of this Ordinance. All such uses are hereby declared to possess such unique and special characteristics that each specific use shall be considered as an individual case.

5.2 REQUIRED INFORMATION

In order to secure evidence upon which to base its review, recommendation and determination, the Planning & Zoning Commission and Town Board may require, in addition to the information required for a Conditional Use Permit, the submission of plans of buildings, arrangement of operations, plat of grounds showing location of buildings, stockpiles, equipment storage, fences or screens, specification of operations, parking areas, traffic access, open spaces, landscaping and any other pertinent information that may be necessary to determine if the proposed use meets the requirements of the Ordinance.

5.3 PROCEDURE

- A. Except in the case of an application for a proposed livestock facility, the procedure for obtaining a Conditional Use Permit is as follows:
1. A Conditional Use Permit Application is submitted to the Town Clerk/Treasurer or the Zoning Administrator/Building Inspector.
 2. The Town Clerk/Treasurer or Zoning Administrator/Building Inspector shall notify all property owners within one thousand (1,000) feet of the parcel in question and publish a Class II Legal Notice listing the time and place of the public hearing, conditional use being proposed, and the location of the proposed Conditional Use.
 3. The Planning & Zoning Commission holds a public hearing.
 4. The application and information obtained at the public hearing is reviewed by the Planning & Zoning Commission at a public meeting as to potential problems that may affect the community, adjoining parcels, occupants of adjoining parcels, and/or the physical environment.

5. Upon consideration of these factors and the standards in Section 5.4 of this Ordinance, the Commission may recommend that the Town Board deny, approve or approve with conditions the Conditional Use Application. The Commission shall forward a copy of the recommendation to the applicant.
 6. The Town Board holds a public hearing.
 7. The application and information obtained at the public hearing and recommendations of the Planning & Zoning Commission is reviewed by the Town Board at a public meeting as to potential problems that may affect the community, adjoining parcels, occupants of adjoining parcels, and/or the physical environment.
 8. Upon consideration of these factors and the standards in Section 5.4 of this Ordinance the Town Board may deny, approve, approve with conditions the Conditional Use Application.
 9. Upon approval, the Chair of the Town Board is to forward a copy of the approved Conditional Use Application and any conditions of approval to the Town Clerk/Treasurer, the applicant and to the County Planning and Development Agency. The County Planning and Development Agency will enumerate the Conditional Use on the Official Zoning Map and enter it into the Town's Conditional Use Data Base.
 10. If a permit is denied, the Town Board shall provide its decision in written form, listing the reasons for denial and explaining the applicant's appeal rights to Circuit Court.
- B. Conditional Use Permits are assigned to a lot or a particular location on the lot, not the person who owns the land. Conditional Use Permits are revocable by majority vote of the Town Board if the: conditional use is not actively utilized for a period of one year, conditions of approval are not being met, or the conditional use is expanded without Town Board approval. The Town Board at its discretion, without going through the full conditional use process, may make changes that are less than substantial changes to a Conditional Use Permit and its conditions with notice given through the Town Board Agenda.
- C. The owner of a parcel of land upon which a conditional use permit has been issued may voluntarily surrender said permit, whereupon the permit shall terminate and no longer run with the parcel.

5.4 STANDARDS APPLICABLE TO ALL CONDITIONAL USES

- A. Except in the case of an application for a proposed livestock facility, in considering a Conditional Use Permit application, the Planning & Zoning Commission and the Town Board shall consider the following factors:
1. That the amount of land is limited to that which is reasonably necessary to accommodate the proposed use.
 2. Wherever possible a proposed use shall be placed on that portion of a parcel which contains the poorest quality agricultural soils or that portion of the parcel which would be the least productive for agricultural purposes, and the use shall be placed as close as possible to other non-agricultural uses.
 3. The location of the site with respect to existing or future roads giving access to it.
 4. Its compatibility with existing uses on land adjacent thereto.
 5. Its harmony with the future development of the district.
 6. Existing topography, existing hydrology such as waterways and drainage, soils types, and vegetative cover.
 7. Its relationship to the public interest, the proposed intent of this Ordinance and substantial justice to all parties concerned.
 8. Its effect on water or air quality, soil erosion and rare or irreplaceable resources.
- B. No conditional use permit shall be issued for any use which might result in damage to town roads unless the Planning & Zoning Commission and the Town Board is assured that adequate provision for repair of potential damages has been made. Such adequate provision may include assuring that any damage to the road caused by the applicant will be repaired or reconstructed at the applicant's full expense and that will protect the town against any expense due to the inability or refusal of the applicant to repair any damage to the road.

5.5 STANDARDS APPLICABLE TO CONDITIONAL USES WITHIN THE A-1 DISTRICT

- A. Except in the case of an application for a proposed livestock facility, in considering a Conditional Use Permit application in the A-1 District, the Planning & Zoning Commission and Town Board shall also consider the following factors:

1. The potential for conflict with agricultural use.
2. The need of the proposed use for a location in an agricultural area.
3. The availability of alternative locations.
4. Compatibility with existing or permitted uses on adjacent lands.
5. Wherever possible a proposed use shall be placed on that portion of a parcel which contains the poorest quality agricultural soils or that portion of the parcel which would be the least productive for agricultural purposes, and the use shall be placed as close as possible to other non-agricultural uses.
6. The location of the proposed use so as to reduce to a minimum the amount of productive agricultural land converted.
7. The need for public services created by the proposed use.
8. The availability of adequate public services and the ability of affected local units of government to provide them without an unreasonable burden.
9. The effect of the proposed use on water or air quality, soil erosion, and rare or irreplaceable natural resources.
10. The use must be consistent with agricultural use.

5.6 CONDITIONS ATTACHED TO CONDITIONAL USE PERMIT

Upon consideration of the factors listed above, the Planning & Zoning Commission may recommend and Town Board may attach such conditions, in addition to those otherwise specifically listed, that it deems necessary in furthering the purposes of this Ordinance. Violation of any of these conditions shall be deemed a violation of this Ordinance.

5.7 NOTICE AND PUBLIC HEARING

Before issuing a Conditional Use Permit, the Planning & Zoning Commission and Town Board shall each hold a public hearing. Notice of such public hearing specifying the time, place, and matters to come before the Planning & Zoning Commission and Town Board shall be posted as a Class II notice as referred to in Chapter 985 [Publication of Legal Notices; Public Newspapers and Fee] of the Wisconsin State Statutes. The Town Clerk/Treasurer or

Zoning Administrator/Building Inspector shall also notify all property owners within one thousand (1,000) feet of the land parcel in question by regular mail with the above information.

5.8 CONDITIONAL USE PERMIT FEE

The applicant, upon filing of his application, shall pay a fee to the Town in accordance with the following schedule:

- A. Conditional Use Fee - to be determined by Town Board by resolution.

5.9 STANDARDS AND PROCEDURES APPLICABLE TO LIVESTOCK FACILITIES WITHIN THE A-1 DISTRICT

- A. Applications for Conditional Use Permits for new and expanded livestock facilities are governed by the requirements of this subsection (5.9).
- B. Standards for Livestock Facilities Subject to Local Approval
 - 1. Pursuant to the provisions of Section 93.90 of the Wisconsin Statutes, the Town of Magnolia does hereby adopt and incorporate the provisions of Section 93.90 *[Livestock Facility Siting and Expansion]* of the Wisconsin Statutes and ATCP 51 *[Livestock Facility Siting]* of the Wisconsin Administrative Code, inclusive of all future amendments to any provisions of those sections of the Wisconsin Statutes and Administrative Code. The Planning & Zoning Commission and the Town Board will follow procedures consistent with state law and will review applications for conditional use permits for new and expanded livestock facilities according to state law.
 - 2. Livestock structures must meet local requirements related to setbacks from property lines and public roads when the requirements are consistent with the provisions of ATCP 51.
- C. Procedure for Obtaining a Conditional Use Permit for a Livestock Facility
 - 1. Application
 - a. An applicant for a Conditional Use Permit for a livestock facility shall complete and file with the Town Clerk/Treasurer or Zoning Administrator/Building Inspector the application form and attached worksheets contained in Appendix

A of ATCP 51 of the Wisconsin Administrative Code. The information contained in the application shall be credible and internally consistent.

- b. An applicant shall submit 4 duplicate copies of the original application form and attached worksheets.
- c. An applicant shall submit a fee of \$1,000.00 with the application to offset the Town's costs to review and process the application.
- d. Within 45 days after receipt of the application under para. (a), the Town Clerk/Treasurer or Zoning Administrator/Building Inspector shall notify the applicant whether the application is complete. If the application is incomplete, the notice shall specifically describe what else is needed. Within 14 days after receiving the materials necessary to complete the application, the Town Clerk/Treasurer or Zoning Administrator/Building Inspector shall notify the applicant that the application is complete. A notice of completeness does not constitute an approval of the proposed livestock facility.

2. Procedure for Consideration of the Application

- a. The Town Clerk/Treasurer or Zoning Administrator/Building Inspector shall notify all property owners within one thousand (1,000) feet of the parcel in question and publish a Class II Legal Notice listing the time and place of the public hearing, conditional use being proposed, and the location of the proposed livestock facility.
- b. The Planning & Zoning Commission holds a public hearing.
- c. The Planning & Zoning Commission will review the application at a public meeting. Upon consideration of the standards under Section 5.9(B) of this Ordinance, the Commission may recommend that the Town Board deny or approve the application. The Commission shall forward a copy of the recommendation to the applicant.
- d. The Town Board holds a public hearing.
- e. The application, information obtained at the public hearing, and recommendations of the Planning & Zoning Commission are reviewed by the Town Board at a public meeting.

- f. Upon consideration of these factors and the standards under Section 5.9(B) of this Ordinance, the Town Board may deny or approve the application.
- g. Upon approval, the Chair of the Town Board is to forward a copy of the approved application to the Town Clerk/Treasurer, the applicant and to the County Planning and Development Agency. The County Planning and Development Agency will enumerate the Conditional Use on the Official Zoning Map and enter it into the Town's Conditional Use Data Base.
- h. Within 30 days after the Town Board grants or denies the application, the Town Board shall submit the following information to the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP):
 - 1) The Town Board's written decision denying or granting the application.
 - 2) A copy of the final application on which the Town Board acted. The copy shall include the completed application form and worksheets, but need not include attachments, such as engineering design specifications, maps or aerial photos.

3. Timely Action on Application

- a. Except as provided in para. (b), the Town Board shall grant or deny an application within 90 days after the Town Clerk/Treasurer or Zoning Administrator/Building Inspector gives notice under sub. (C)(1)(d) that the application is complete.
- b. The Town Board may extend the time limit in para.(a) for good cause, including any of the following:
 - 1) The Town Board needs additional information to act on the application.
 - 2) The applicant materially modifies the application or agrees to an extension.
- c. The Town Board shall give an applicant written notice of any extension under para. (b). The notice shall state the reason for the extension and shall specify the extended deadline date by which the Town Board will act on the application.

4. Site Assessment

A site assessment may be conducted prior to the issuance of a Conditional Use Permit at the request of the Planning & Zoning Commission or the Town Board, or on the initiative of the applicant. An assessment may cover environmental and other concerns related to the evaluation of the application under Section 5.9(B) of this Ordinance. If an assessment is required, the Town will provide written notice describing the precise nature of the items to be assessed.

5. Granting or Denying an Application

- a. Except as provided in para. (b), an application shall be granted if all of the following apply:
 - 1) The application complies with sub. (C)(1).
 - 2) The application contains sufficient credible information to show, in the absence of clear and convincing information to the contrary, that the proposed livestock facility meets or is exempt from the standards incorporated under Section 5.9(B) of this Ordinance.
- b. An application may be denied if any of the following apply:
 - 1) The application fails to comply with sub. (C)(1).
 - 2) The Town Board finds, based on other clear and convincing information in the record that the proposed livestock facility fails to comply with an applicable standard under Section 5.9(B) of this Ordinance.

6. Written Decision and Record

- a. The Town Board shall issue its decision under sub. (C)(2)(e) in writing. The decision shall be based on written findings of fact included in the decision. The findings of fact shall be supported by evidence in the record.
- b. The Town Board shall keep a complete written record of its decision-making related to an application and shall keep the record for at least 7 years following its decision. The record shall include the following:
 - 1) The application under sub. (C)(1) and all subsequent additions or amendments to the application.

- 2) A copy of any notice under sub. (C)(1)(d) and copies of any other notices or correspondence that any Town official issues in relation to the application.
- 3) A record of any public hearing related to the application. The record may be in the form of an electronic recording, a transcript prepared from an electronic recording, or a direct transcript prepared by a professional court reporter or stenographer. The record shall also include any documents or evidence submitted by hearing participants.
- 4) Copies of any correspondence or evidentiary material that the Town Board considered in relation to the application.
- 5) Minutes of any board or committee meeting held to consider or act on the application.
- 6) The written decision required under para. (a).
- 7) Other documents that the Town Board prepared to document its decision or decision-making process.
- 8) A copy of any local ordinance cited in the decision.

D. Terms of Approval

1. An approval of an application for a livestock facility is conditioned on the operator's compliance with the applicable standards under Section 5.9(B) of this Ordinance and the representations made in the application for approval.
2. The Town Board may suspend or revoke an approval, or seek other redress as provided by Section 2 of this Ordinance, if the Town Board finds any of the following:
 - a. The operator materially misrepresented relevant information in the application for approval, or materially failed to honor relevant commitments made in the application without authorization from the Town Board.
 - b. The livestock facility fails to comply with applicable standards under Section 5.9(B) of this Ordinance.

3. Certification of Compliance

- a. A permittee for a livestock facility shall certify in writing, by a professional engineer or a person with appropriate engineering job approval according to Natural Resource Conservation Service (NRCS) standards, that all livestock structures were installed or closed as planned in the approved application.
- b. A copy of the signed certification sheet shall be given to the Town Board within 1 month of completion of installation or closure and at least 10 days prior to the population of a livestock facility by the number of animal units approved under the Conditional Use Permit or a smaller number of animal units if that number would require approval under this Ordinance.
- c. Any approved changes made to the location or design of livestock structures shall be specified in the certification.
- d. The Zoning Administrator/Building Inspector, Planning & Zoning Commission, or the Town Board may conduct site inspections during and following construction to determine that all livestock structures are installed or closed as planned in the approved application. If an inspection is required, the Town will provide the permittee with written notice.

4. Entry and Inspection Authority

- a. Upon written notice, and with the consent of the permittee, the Zoning Administrator/Building Inspector, Planning & Zoning Commission, or the Town Board may enter upon land to inspect a livestock facility approved under Section 5.9 of this Ordinance to determine compliance with the terms of the Conditional Use Permit issued under this Ordinance.
- b. If permission cannot be received from the permittee, entry by any of the Town officials listed in para. (a) shall be according to Section 66.0119 [*Special Inspection Warrants*] of the Wisconsin Statutes. Refusal to grant permission to enter lands affected by Section 5.9 of this Ordinance for purposes of inspection shall be grounds for an order of non-compliance, or for the denial, suspension or revocation of a Conditional Use Permit.

SECTION 6.0 BUILDING PERMITS

6.1 EXPLANATION

A Building Permit is to be obtained from the Zoning Administrator/Building Inspector as a requirement of this Ordinance. Building Permit is required to be obtained before any work is started where a building permit is required. If work is started before such building permit is obtained, penalties shall be assessed to the permit fee as determined by the Town of Magnolia. Prior to issuing a Building Permit the Zoning Administrator/Building Inspector shall review the proposed use, the existing zoning district assigned to the building site land parcel, and determine if the proposed use is consistent with the district and other provisions of the ordinance.

6.2 BUILDING PERMITS

A. Cases where Building Permit is required.

1. Where any building or other structure is erected, moved or structurally altered so as to change its use or increase its floor area.
2. Where any land use is substantially altered.
3. Where 50 percent or more of the fair market value of a structure is destroyed and it is being repaired or altered.
4. Where there is an upgrade in electrical services. Permits are also required where there is plumbing, heating or electrical wiring is installed new, added or relocated.
5. Where any swimming pool is erected year-round.

B. Cases where Building Permit is not required.

1. For any accessory building, which is less than 101 square feet provided such building conforms to all the setback, yard and open space requirements of this Ordinance.
2. For any maintenance repairs that do not involve a change to the structure.

C. The Building Permit Card issued as part of the approval shall be displayed at a prominent location, which can be on the building site, the public road, or driveway.

- D. A new permit is required if the exterior of a building is not completed within 12 months.

6.3 APPLICATION FOR BUILDING PERMIT

An application for a Building Permit shall be made to the Zoning Administrator/Building Inspector upon forms furnished and shall include, for the purpose of proper enforcement of these regulations, the following data:

- A. When a new building or addition to an existing building is being proposed an accurate map is required of the Land parcel including proper dimensions showing:
 1. The lot line distances and setback line distances of the land parcel involved.
 2. The current zoning applied to the land parcel, building plans, and building estimated costs.
 3. The location of the centerline and the road right-of-way lines of any abutting streets or highways.
 4. The location of the proposed access.
 5. The location on the lot of: all existing buildings, proposed additions to existing buildings, and all proposed new buildings; the measured distances between existing buildings and from two lot lines, and from the centerline or road right-of-way lines of any abutting streets or highways to the nearest portion of such building.
 6. The floodway, floodfringe, and the normal high water line of any stream or lake on which the property adjoins or includes.
 7. Where the use involves an on-site sewer system, the Map shall include the location of the water well and pipe system and sewage system, which shall conform to the requirements set forth in the NR 812 [Well Construction and Pump Installation] and SPS 383 [Private Onsite Wastewater Treatment Systems] Wisconsin Administrative Code. The plan shall also show the location and distances of the proposed water and sewage systems to the water and sewage systems of the adjoining lots.

6.4 BUILDING PERMIT FEE

The applicant, upon filing of the Building Permit with the Zoning Administrator/Building Inspector, shall pay a fee to the Zoning Administrator/Building Inspector in accordance with the following:

- A. Building Permit Fee - to be determined by Town Board by Resolution.
- B. Building Permit Fee will be doubled if work is started before a permit is obtained.

SECTION 7.0 DRIVEWAYS

7.1 PURPOSE

The purpose of this Section is to regulate the establishment, construction, improvement, modification, or the reworking of a driveway that changes the existing topography of the land to assure that the site; method of construction, and conservation practices to be used will promote the public health, safety, and general welfare of the community, preserve agricultural land and productivity, and enforce the goals, objectives, and policies of the Town of Magnolia.

7.2 JURISDICTION

Jurisdiction of these regulations shall include all driveways on land within the Town of Magnolia.

7.3 AUTHORITY

These regulations are adopted under the general police powers authority granted pursuant to 60.10(2)(c) [Exercise of Village Powers], 60.22(3) [Town Exercising of Village Powers], and 61.34(1) [Powers of Village Board] of the Wisconsin Statutes.

7.4 APPLICATION REQUIREMENTS AND PROCEDURES

- A. **Who Must Apply** – No person or entity shall establish, construct, improve, modify, or rework a driveway that changes the existing topography of the land without first obtaining a Driveway Construction Permit from Town Officials.
- B. **Application Forms** – The Town Board shall approve a form for the applications for Driveway Construction Permits. These are available from the Town Clerk/Treasurer or Zoning Administrator/Building Inspector.
- C. **Application** – Submit a completed Driveway Construction Permit Application with the appropriate permit fee (to be determined by Town Board resolution) and the following required attachments to the Town Clerk/Treasurer or Zoning Administrator/Building Inspector. The attachments (1) through (6) are described in the Town's Applications Guide, a copy of which is available from the Town Clerk/Treasurer or Zoning Administrator/Building Inspector.

1. Plat map
2. Aerial photo/site analysis
3. Soil/slope analysis
4. County Erosion control plan (if required), or
5. Engineer's Plan (if required)
6. Other Documents. The Town may require other documents to be attached to the Driveway Construction Permit Application. Such documents, if any, would be described in the Applications Guide

D. **Application Review** – The evaluation of the Driveway Construction Permit Application includes the following:

1. Certification of Application as complete by Zoning Administrator/Building Inspector
2. Site visit by Zoning Administrator/Building Inspector and one Town Board member
3. Submittal of any additional documents if required for evaluation after site visit and initial review

E. **Appeal Process for Denial** – If an application for a Driveway Construction Permit is denied by the Zoning Administrator/Building Inspector, the applicant may appeal the decision to the Town Board by filing a notice of appeal to the Town Board within fourteen (14) days of receipt of the written notice denying the permit. The entire Town Board will then meet at a normal monthly Board meeting and review the decision. If the Town Board denies the permit, no reapplication for relatively similar Driveway Construction Permit will be considered within three (3) months of the date of denial.

F. **Permit Period** – The Driveway Construction Permit is effective for twelve (12) months unless renewed.

G. **Renewal** – The permit may be renewed for one (1) additional period of twelve (12) months. If the driveway has not been constructed by the end of the renewal period, a new application must be submitted and approved.

H. **Driveway Inspection** – The applicant will notify the Town Clerk/Treasurer or Zoning Administrator/Building Inspector within thirty (30) days of completion of the construction or modification. Within thirty (30) days of notification, the Town will conduct an inspection of the driveway to ensure full compliance with all of the provisions of this Ordinance.

I. **Building Permits** – No Building Permit for new residential construction will be issued until the driveway is constructed according to the specifications of this Ordinance. The

only exception will be the final application of gravel or other approved surface, which may occur after heavy equipment needed for building will no longer be using the driveway.

- J. **Application Fee** – The amount of the Application Fee will be determined by resolution by the Town Board periodically.

7.5 PLAN REQUIREMENTS

- A. **Engineer's Plan** – The Town Officials may require a plan prepared by a licensed professional engineer prior to any proposed driveway construction or modification. An Engineer's Plan is required:

1. For a driveway or segment of a driveway whose construction requires the disturbance of land with a slope of 12% or greater;
2. For a driveway or segment of a driveway whose construction requires a retaining wall or other special erosion control measure as determined by the Town Officials; and
3. When Town Officials request a plan.

- B. **Construction Plan** – A construction Plan is required for all segments of the proposed driveway not covered by the Engineer's Plan. The plan shall be drawn to scale and show the location of the driveway on the lot.

7.6 SPECIFICATIONS FOR THE CONSTRUCTION OF DRIVEWAYS

- A. **Visibility** – There must be adequate visibility of oncoming traffic at the point where the driveway meets the public road. An object three and one-half (3.5) feet in height must be seen from the driveway at the edge of the traveled portion of the roadway when viewed from a height of three and one-half (3.5) feet for the following distances at these posted speeds:

Posted Speed (Miles per hour)	Minimum Sight Distance (Feet)
25	150
30	200
35	250
40	325
45	400
50	475
55	550

- B. **Slope** – The maximum final slope of the driveway or any other portion of the driveway shall be no more than 11%.
- C. **Width, Rise and Ditch Distance** – The driveway shall be constructed with a minimum finished surface of fourteen (14) feet in width, with a minimum of four (4) feet side slope on each side with a maximum slope of one (1) foot of vertical rise for each four (4) feet of horizontal distance. (Such a rise equals 25% slope.) There shall be a minimum of twenty four (24) feet from the center of the ditch on one side of the driveway to the center of the ditch on the other side. The center of each ditch must be at least twelve (12) feet from the centerline of the fourteen (14) foot road.
- D. **Culverts** – Each driveway shall have a culvert of at least fifteen (15) inches in diameter at the ditch line where the driveway meets the public road, unless modified by Town Officials. The culvert length shall be a minimum of twenty (20) feet or greater if determined by Town Officials.
- E. **Proximity to adjoining Lots** – The edge of the driveway or culvert pipe shall not be closer than five (5) feet from any property line.
- F. **Proximity to adjoining Driveways** – The edge of the driveway, at the centerline of the roadway ditch, shall be no closer than twenty (20) feet from the edge of another driveway.
- G. **Juncture with a Public Road** – A length of driveway, a minimum of twenty four (24) feet, shall have a maximum of 5% slope at the point where the driveway enters onto a public road. The driveway surface shall be level or lower than the roadway in order to keep drainage off the roadway. A slight dip across the drive shall be placed just before the culvert at the entrance to the public road to prevent water and debris from washing onto the public road.

- H. **Drainage** – Ditches along the right of way, roadway crowning, and culverts shall be provided by the property owner for acceptable drainage. The driveway shall be planned, constructed, and maintained in a manner that prevents diversion of surface water onto the public road and/or the lands of other persons.
- I. **Side Banks** – The side banks shall be graded to a slope of no more the one (1) foot of vertical rise in each three (3) feet of horizontal distance (such rise equals 33% slope). Excluded from this grading requirement are driveways for which retaining walls and/or other erosion control measures are installed as specified in an Engineer’s Plan approved by Town Officials. The side banks shall be constructed using earthen materials.
- J. **Radius of Curve** – Curves in the driveway shall have an inside radius of curve of no less than thirty six (36) feet.
- K. **Erosion Control** – Once the construction of the driveway has begun, all specified erosion control – including retaining walls, ditching, culverts, crowning, mulching, matting, and bank seeding – shall be begun immediately. For winter construction, erosion alternatives must be implemented within thirty (30) days until specified controls are available.
- L. **Substrate** – The driveway must have at least six (6) inches of 2-inch rock on the roadbed, covered with two (2) inches of ¾-inch gravel. If it can be shown there is a suitable base, the provision requiring six (6) inches of 2-inch-rock may be modified or waived by Town Officials. A field road is exempt from this provision.
- M. **Clearance for Emergency Vehicles** – An area twenty four (24) feet in width and fourteen (14) feet in height in shall be cleared along the entire driveway right of way in order to permit the safe passage of emergency vehicles to the structures served by the driveway. A field road is exempt from this requirement.
- N. **Turnaround** – Minimum turnaround of a fifty (50) foot radius or an “in-back-out” of at least ninety (90) degrees and fifty (50) in length.
- O. **Costs** – All costs of construction of said driveway, including the cost of culverts and Engineer’s Plan, if required, shall be paid by the property owner requesting the permit.
- P. **Waiver of Specifications** – Any specification(s) in this section may be waived or modified by the Town Board if it deems the specification(s) would impose an unnecessary hardship. Any request by an applicant for a waiver or modification of any

provision in the section must accompany the initial application and must state the reason for the request.

Q. Driveways Exceeding 400 feet in Length

1. Driveways exceeding four hundred (400) feet in length, but less than eight hundred (800) feet shall provide a turnout near the midpoint of the driveway. Where the driveway exceeds the eight hundred (800) feet, turnouts shall be provided no more than four hundred (400) feet apart.
2. A turnaround shall be provided at all building sites on driveways over four hundred (400) feet in length, and shall be within fifty (50) feet of the building required.

7.7 ENGINEER'S PLAN SPECIFICATIONS

A. Components – If required, an Engineer's Plan will include a scale plan showing the following:

1. **Location** – The precise location of the driveway or the segment of driveway that requires an Engineer's Plan.
2. **Slope** – The slope of the driveway showing no segment exceeding 11%.
3. **Retaining Walls** – The location and structure of any retaining walls.
4. **Culverts** – The location and size of any culverts.
5. **Cross-section** – A cross-section of the driveway.
6. **Erosion Control** – The required mulching, matting or other erosion control.
7. **Certification** – The plan will include the Engineer's name, address, and signature and a statement from the Engineer that he/she has fully complied with all the provisions of this Ordinance.

B. Approval

1. **Conditions** – No construction of a driveway may commence until the Engineer's Plan if required, is approved by the Town Officials, until a Driveway Construction Permit is issued by the Zoning Administrator/Building Inspector and, when applicable, any

necessary approvals are obtained from Rock County or the State of Wisconsin. (See 86.07 Wisconsin Statutes Digging in Highways or using Bridges for Advertising).

The preparation of an Engineer's Plan does not guarantee the Town's approval of the Driveway Construction Permit Application.

2. **Inspection** – After the driveway has been completed, a minimum of two (2) Town Board members or (1) Town Board member and one (1) appointed person shall inspect the driveway to determine whether or not it is constructed according to plan(s) and is consistent with the requirements of this Ordinance.
3. **Disclaimer** – The Town's Approval of a driveway permit application does not constitute a determination that the driveway is safe, suitable for use or otherwise passable for the public. No person may rely on the issuance of a permit to determine that a driveway is fit for any purpose.

7.8 EXISTING DRIVEWAYS

- A. **Hazardous Conditions** – When surface runoff, accumulating debris or other conditions created by existing driveways or field road that do not meet the specifications in this Ordinance obstruct or become a potential hazard to a public road, the Town Board shall notify the property owner of the conditions. Any property owner failing to correct such a condition within thirty (30) days after notice by the Town Board shall be subject to the penalties described in the penalties sections of this Ordinance.
- B. **Field Roads** – No Field Road may be used for non-agricultural purposes unless the Field Road has been approved as a driveway under the purposes of this Ordinance.

7.9 AGRICULTURAL PRODUCTIVITY

The Town Officials shall approve a driveway with the least impact on agricultural land. No driveway shall be approved in the Town of Magnolia if the Town Officials find that the driveway will adversely impact productive agricultural land, unless the Town Officials find that the driveway is necessary to enhance the agricultural productivity of an adjacent parcel to be served by the driveway is capable of producing at least \$6,000 of gross income per year.

7.10 PRIVATE DRIVE

All driveways within the Township are private driveways. No private driveway may be dedicated to the public without acceptance and approval by the Town Board. No private driveway shall be considered a public roadway. The Town shall not be responsible for maintenance, upkeep or repair of any private driveway.

7.11 PENALTIES

- A. **Forfeitures** – Should a driveway be constructed or modified in a violation of the provisions of this Ordinance, or create a hazard that is not corrected within thirty (30) days of notification, the owner(s) of the land through which the driveway passes shall upon conviction, pay a forfeiture of \$100 plus applicable surcharges and court costs per violation. Each day that the violation continues to exist constitutes a separate offense. An unlawful driveway constitutes a public nuisance and may be enjoined.
- B. **Corrections** – In addition, the land owner(s) shall make the corrections ordered by the Town Board within thirty (30) days or a period of time determined by the Town Board.

7.12 SEVERABILITY

The provisions of this Ordinance shall be deemed severable. It is expressly declared that the Town Board would have passed the other provisions of this Ordinance irrespective of whether or not one or more provisions may be declared invalid. If any provisions of this Ordinance is held invalid, the remainder of the Ordinance and the application of such provisions to other persons or circumstances shall not be affected thereby.

SECTION 8.0 BOARD OF APPEALS

8.1 ESTABLISHMENT

There is hereby established a Board of Appeals for the Town Section 60.65 [Zoning Authority if Exercising Village Powers] Wisconsin State Statutes for the purposes set forth in this Section.

8.2 MEMBERSHIP

The Board of Appeals shall consist of three (3) members and an alternate appointed by the Town Chairman and confirmed by the Town Board.

- A. **Terms** shall begin each May 1st and be staggered for three-year periods.
- B. **Chairman** shall be elected annually on May 1st by the Board of Appeals members.
- C. **Conflict of Interest** – Any member who has any interest in a matter before the Board shall not vote thereon.
- D. **An Alternate Member** shall be appointed by the Town Chair for a term of three (3) years and shall act only when a regular member is absent or cannot vote because of conflict of interest.
- E. No member shall be a Town Board member, Planning and Zoning Commission member or the Zoning Administrator/Building Inspector.
- F. **Secretary** shall be the Town Clerk/Treasurer.
- G. **Zoning Administrator/Building Inspector** shall attend meetings for the purpose of providing technical assistance when requested by the Board of Appeals.
- H. **Official Oaths** shall be taken by all members in accordance with Section 19.01 of the Wisconsin Statutes within ten (10) days of receiving notice of their appointment.
- I. **Vacancies** shall be filled for the unexpired term in the same manner as appointments for a full term.
- J. **Compensation** shall be determined by the Town Board by resolution.

8.3 ORGANIZATION

The Board of Appeals shall organize and adopt rules of procedure for its own government in accordance with the provisions of this Ordinance.

- A. **Meetings** shall be held at the call of the Chairman and shall be open to the public.
- B. **Minutes** of the proceedings and a record of all actions shall be kept by the Town Clerk/Treasurer, showing the vote of each member upon each question, or if absent, or failing to vote indicating such fact, the reasons for the Board's determination, and its finding of fact. The Town Clerk/Treasurer shall keep records of the Board's examinations and other official actions, all of which shall be immediately filed and shall be a public record.
- C. **The Concurring Vote** of two (2) members of the Board shall be necessary to exercise the powers enumerated in Section 8.4.

8.4 POWERS

The Board of Appeals shall have the following powers:

- A. **Errors** – To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Planning & Zoning Commission or its delegates in the enforcement of codes, regulations or ordinances under their jurisdiction.
- B. **Variances** – To hear and grant appeals for variances as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship, so that the spirit and purposes of the Ordinance shall be observed and the public safety, welfare, and justice secured. Use variances shall not be granted, nor shall a variance be granted where the conditions exist as a result of a self-imposed hardship.
- C. **Interpretations** – To hear and decide application for interpretations of the codes, regulations, ordinances and the boundaries of the zoning districts after the Planning & Zoning Commission has made a review and recommendations.
- D. **Procedures Appeals** to the Board of Appeals may be taken by any person aggrieved or by any officer, department, or bureau of the Town affected or by any decision of the Zoning Administrator/Building Inspector, or other administrative officer.

- E. **Permits** – The Board may reverse, affirm wholly or partly, modify any decision of the Zoning Administrator/Building Inspector and may direct the issuance of a building permit. Under no circumstances will the Board issue a conditional use permit.
- F. **Assistance** – The Board may request assistance from other town and county officials, departments, agencies and boards.
- G. **Oaths** – The Chair shall administer oaths and may compel the attendance of witnesses by subpoena.

8.5 APPEALS AND APPLICATIONS

Appeals from the decision of the Zoning Administrator/Building Inspector concerning the literal enforcement of this Ordinance may be made by any person aggrieved or by an Administrator, department, commission, board, or bureau of the Town. Such appeals shall be filed with the Town Clerk/Treasurer within sixty (60) days after the date of written notice of the decision or order of the Zoning Administrator/Building Inspector. Applications may be made by the owner of or lessee of the structure, land, or water to be affected at any time and shall be filed with the Town Clerk/Treasurer. Such appeals and applications shall include the following:

- A. **Name and Address** of the appellant or applicant and all abutting and opposite property owners of record, and owners within one thousand (1,000) feet.
- B. **Map of the Area** showing all of the information required under Section 6.3 for a Building Permit.
- C. **Additional Information** required by Town Planning & Zoning Commission, Board of Appeals, Town Attorney, or Zoning Administrator/Building Inspector.
- D. **Fee Receipt** from the Town Clerk/Treasurer. Fee to be set by the Town Board by Resolution.

8.6 HEARINGS

The Board of Appeals shall hold a public hearing within thirty (30) days of receiving a complete application for the hearing. The Board, or Clerk/Treasurer or Zoning Administrator/Building Inspector shall give a Class II Legal Notice under Chapter 985 [Publication of Legal Notices; Public Newspapers; Fees] of the Wisconsin Statutes. Notice of

such public hearing specifying the time, place, and matters to come before the Board shall be posted as a Class II notice as referred to in Chapter 985 Wisconsin State Statutes. The Town Clerk/Treasurer or Zoning Administrator/Building Inspector shall also notify all property owners within one thousand (1,000) feet of the land parcel in question by regular mail with the above information. At the hearing, the appellant or applicant shall appear in person, by agent, or by attorney.

8.7 STANDARDS FOR EVALUATING VARIANCES

The variance procedure allows the dimensional standards in an ordinance to be varied in response to unusual circumstances, which constitute unnecessary hardship. Variances are not to be granted routinely. The applicant for a variance must clearly show the Board of Appeals that three statutory standards that govern the granting of a variance will be met. These three standards require the existence of unnecessary hardship, the presence of a unique property limitation, and the protection of the public interest. The Board shall not grant use variances - a change in use requires a zoning map or text amendment.

- A. Unnecessary Hardship is a situation where, in the absence of a variance, an owner can make no feasible use of a property, or strict conformity is unnecessarily burdensome. Board members must judge what a feasible use for a particular parcel as a whole is. A variance is not warranted if the physical character of the property allows a landowner to build or develop in compliance with the zoning ordinance.
 - 1. The hardship or difficulty must be peculiar to the zoning of the parcel in question and different from that of other parcels, not one that affects all parcels similarly. Hardship arises because of some unique property limitation of a parcel, or because the property was created before the passage of the zoning ordinance. If either circumstance renders the parcel unsuitable for any use permitted under the existing ordinance - if all area, yard and setback requirements are observed - the parcel may qualify for a hardship.
 - 2. Loss of profit or pecuniary (financial) hardship is not in and of itself grounds for a variance.
 - 3. Self-imposed hardship is not grounds for a variance. Reductions resulting from the sale of portions of a property that reduce the remainder below buildable size or cut off existing access to a public highway, deed restrictions imposed by the owner's predecessor in title, and improvements that were made in violation of the ordinance are generally considered to be self-imposed hardships.

4. The hardship cannot be one that would have existed in absence of a zoning ordinance. Sometimes, a legitimate hardship results from the interaction of the provision of the zoning ordinance with other actions or regulations adopted by public authorities.
- B. A Unique Property Limitation is caused by unique physical characteristics of the property, not the desires of or conditions personal to the applicant. These limitations must prevent the applicant from developing in compliance with the zoning ordinance. These features may be wetlands, soil types, steep slopes or a parcel shape that limits the reasonable use of the property.
- C. Protection of the Public Interest is where granting a variance must neither harm the public interest nor undermine the purpose of the ordinance. The Boards actions should be consistent with the "Purpose" and "Intent" sections stated in this Ordinance. The public interest includes the interests of the public at large, not just that of the nearby property owners. Lack of opposition does not in itself mean that a variance will not harm the public interest.
1. In granting variances the Board may impose special conditions to ensure that the public welfare is not damaged. The conditions must relate reasonably to the purpose and intent established in this ordinance.
 2. A variance should include only the minimum relief necessary to allow reasonable use of a property.
 3. Violations by or variances granted to neighboring owners do not justify a variance.
 4. Variances are attached to the property as a permanent right. Once a variance has been granted, it is permanently attached to the property. A new owner of the property may make use of a variance that was granted to a previous owner if all the conditions that are attached to the variance are met.

8.8 FINDINGS

The Board shall grant no variance to the provisions of this Ordinance unless it finds that all the following facts and conditions exist and so indicates in the minutes of its proceedings.

A. Exceptional Circumstances

There must be exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally

to other properties or uses in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that the Zoning Ordinance should be changed.

B. Absence of Detriment

The variance will not create substantial detriment to adjacent property and will not materially impair or be contrary to the purpose and spirit of this Ordinance or the public interest.

C. Findings of Fact

The decision of the Board shall be accompanied by findings of fact stating the basis for the decision.

8.9 DECISION

The Board of Appeals shall decide all appeals and applications within thirty (30) days after the final hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant, Zoning Administrator/Building Inspector and the Planning & Zoning Commission.

A. Conditions may be placed upon any Building Permit ordered or authorized by the Board.

B. Variances granted or building permits directed by the Board shall expire within six (6) months unless substantial work has commenced pursuant to such grant.

8.10 REVIEW BY COURT OF RECORD

Any person or persons aggrieved by any decision of the Board of Appeals may present to a court of record a petition duly verified setting forth that such decision is illegal and specifying the grounds of the illegality. Such petition shall be filed in the Circuit Court of Rock County within sixty (60) days after the filing of the decision in the office of the Town Clerk/Treasurer.

SECTION 9.0 STANDARDS FOR EVALUATING CONDITIONAL USES, CHANGING ZONING DISTRICTS AND GRANTING VARIANCES

The following information may be used by the Town Board, Planning & Zoning Commission, or Board of Appeals prior to or during the proceedings where conditional use permits, zoning district changes or variances are being considered. Conditions of approval can be attached by the Town Board, Planning & Zoning Commission or Board of Appeals to address problems that are not direct conflicts of the interest of this ordinance. The following guidelines are not all inclusive.

9.1 SITE DESIGN AND PHYSICAL CHARACTERISTICS

- A. Existing topography, drainage patterns and vegetative cover and the suitability of the proposed use in this regard.
- B. Availability of water, sewer, rail and other services and the utility requirements of the proposed site.
- C. Where public sewers are not available, the percolation characteristics of the soil.
- D. Adequacy of the proposed internal circulation system, including safety consideration.
- E. Access to sites from the internal circulation system.
- F. The costs of providing various public services.
- G. Appearance -- how the area will look

9.2 SITE LOCATION RELATIVE TO THE PUBLIC ROAD NETWORK

- A. Convenient access to a public road network -- safety of access points.
- B. Visibility from the proposed road and the need for visibility.
- C. Location to provide access primarily by right-hand turning movements.

9.3 LAND USE

- A. Compatibility with existing or proposed uses in the area.

- B. Relation to any existing land use plan.
- C. Relation to existing or proposed development at nearby interchanges.

9.4 TRAFFIC GENERATION

- A. Amount of daily and peak-hour traffic to be generated, related to site size; traffic to be sub-classified as to arterial, collector and local streets.
- B. Amount of traffic generated relative to existing and anticipated ultimate generated traffic in the area.
- C. Expected composition of site-generated traffic by vehicle types.
- D. Effect of site-generated traffic on the operation of the area.
- E. Safety and convenience to future users.

9.5 COMMUNITY EFFECTS

- A. Immediate and long-range tax base.
- B. Access to market or service area.
- C. Relation to scenic or recreation values.
- D. Relation to the public interest, the purpose and intent of this Ordinance, and substantial justice to all parties concerned.
- E. Compliance with the Development Plan's Goals and Objectives.

9.6 OTHER RELEVANT FACTORS

- A. Performance Standards in Section 13 of this Ordinance.
- B. Additional impacts.

SECTION 10.0 HIGHWAY SETBACK LINES & ROADSIDE REGULATIONS

10.1 CLASSIFICATION AND SETBACKS

For the purpose of determining the distance buildings and other structures are set back, the roads and highways of the township are hereby divided into the following classifications according to the Wisconsin Department of Transportation Functional Classification System or a locally adopted Transportation Plan.

A. Arterial Highways

1. The setback line for Arterial highways shall be a minimum of 150 feet from the centerline of the highway or a minimum of 100 feet from the right-of-way line whichever is greater.
2. Minimum Road right-of-way for Arterial Highways shall be 100 feet and 50 feet for one-half road right-of-ways.

B. Collector Roads

1. The setback for collector roads shall be a minimum of 90 feet from the centerline or minimum of 50 feet from the right-of-way line, whichever is greater.
2. Minimum road right-of-way shall be 80 feet and forty feet for a half road right of way.

C. Local Roads

1. All local roads shall have a minimum setback of 85 feet from the centerline or minimum of 50 feet from the right-of way line, whichever is greater. Minimum setbacks along local roads where public sewer is available is 35 feet. Minimum road right-of-way shall be 70 feet.
2. Frontage roads along Arterial highways shall be considered as local roads for the purpose of determining the setback along said service roads.

D. Lesser Setbacks

Lesser setbacks may be permitted by the Town Board in cases of unusual topography, or existing patterns of lesser setbacks of buildings on nearby properties or varying alignment of highway right-of-way lines.

E. **Special Width Road Right of Ways**

Road right-of-ways, which are indicated as a Special Width Road in adopted transportation plans, shall be used to establish minimum setback requirements.

SECTION 11.0 NONCONFORMING USES, STRUCTURES, AND LOTS

11.1 EXISTING NONCONFORMING USES

Existing lawful nonconforming uses, structures and lots shall meet the provisions of this Section, and those located within floodplains and shorelands shall comply with the Rock County floodplain and shoreland regulations whichever is more restrictive.

The lawful nonconforming use of land or water; or a lawful nonconforming use in a conforming or nonconforming structure; or lawful nonconforming use on a conforming or nonconforming lot that existed at the time of adoption or amendment of this Ordinance may be continued although the use does not conform with the provisions of this Ordinance; however:

- A. Only that portion of the land or water in actual use may be so continued and the structure may not be extended, enlarged, reconstructed, substituted, moved or structurally altered except when required to do so by law or order or so as to comply with the provisions of this Ordinance.
- B. Total Lifetime Structural Repair or alterations to a structure containing a nonconforming use shall not exceed fifty (50) percent of the equalized assessed value of the structure at the time its use became nonconforming unless it is permanently changed to a conforming use in accordance with the use provisions of this Ordinance. Ordinary maintenance repairs are not considered structural repairs. Some examples of such repairs include painting, calking, decorating, paneling and other nonstructural components; and the repair or replacement of doors, windows, utilities and sewage treatment and water supply systems.
- C. Substitution of New Equipment may be permitted by the Board of Appeals if such equipment will reduce the incompatibility of the nonconforming use with the neighboring uses.
- D. **Licenses** - This Ordinance is not intended to negate licenses (or their respective uses) which are issued by governmental agencies and are current as to the effective date of this Ordinance.
- E. This provision applies in the Exclusive Agriculture District One only if the nonconforming use of a structure, land, or water existed prior to the adoption of this Ordinance (July 26, 1977).

11.2 DISCONTINUANCE

If such nonconforming use is discontinued or terminated for a period of 12 months, any future use of the structure or premises shall conform to the provisions of this Ordinance

11.3 ABOLISHMENT OR DESTRUCTION

When a nonconforming use is damaged by violent wind, vandalism, fire, ice, snow, mold, infestation, explosion, the public enemy, or other calamity, to the extent of more than fifty (50) percent of its equalized assessed value, it shall not be restored except so as to comply with the use provisions of this Ordinance.

11.4 EXISTING NONCONFORMING STRUCTURES

- A. The lawful nonconforming structure with a conforming use lawfully existing at the time of the adoption or amendment of this Ordinance may be continued although its size or location does not conform with the lot width, lot area, yard, height, parking and loading, and access provisions of this Ordinance.
- B. Nonconforming structures with a conforming use may be repaired, maintained, renovated, rebuilt or remodeled subject building code and other applicable requirements. No prohibition or limits based on cost may be imposed on the repair, maintenance, renovation, remodeling or rebuilding of such structures.
- C. Additions and enlargements to existing nonconforming structures with conforming uses are permitted and shall conform to the established setback, height, parking, loading and access provisions of this Ordinance. Existing buildings and their additions and enlargements shall not be permitted to encroach further upon established setbacks and height requirements than the existing encroachment. These provisions are applicable only if existing sanitary code requirements for private onsite sewage treatment systems are met.
- D. A nonconforming structure with a conforming use that is damaged or destroyed by violent wind, vandalism, fire, ice, snow, mold, infestation, public enemy or other calamity may be restored or replaced in the size, location and use that it immediately before damage or destruction occurred, subject to building code and other applicable requirements. No limits may be imposed on the costs of the repair, reconstruction or improvement of said structure. The size of the structure may be larger than the size immediately before the damage or destruction occurred if necessary to comply with applicable State or Federal requirements. Any reconstruction shall conform to Ordinance regulations and existing sanitary code and shall commence within twenty

four (24) months of the date of damage and destruction, unless an extension has been granted by the government agency having authority.

- E. Additionally, this provision applies in the Exclusive Agriculture Zoning District One only if the nonconforming structure, existed prior to the adoption of this Ordinance (July 26, 1977).

11.5 CHANGES AND SUBSTITUTIONS

Once a nonconforming use or structure has been changed to conform, it shall not revert back to a nonconforming use or structure due to this Ordinance originally adopted July 26, 1977. The Town Board may permit the substitution of a more restrictive nonconforming use for an existing nonconforming use after it has received recommendations from the Planning & Zoning Commission. The prior nonconforming use shall lose its status as a legal nonconforming use and the substituted more restrictive nonconforming use shall be subject to all the conditions required by the Town Board.

11.6 VACANT NONCONFORMING LOTS

- A. Existing land parcels of less than the minimum lot size, may have a Permitted or Conditional Use listed in the assigned zoning district provided, that the parcel was established and on file in the Rock County Register of Deeds Office prior to the effective date of this Ordinance originally adopted July 26, 1977.
- B. Development of vacant nonconforming lots granted permits under this Section shall be required to meet the setback, height, parking, loading, access, septic system, water well provisions and other Ordinance regulations, except lot size requirements.
- C. This provision applies in the Exclusive Agriculture District One only if the substandard lot existed prior to the adoption of this Ordinance (July 26, 1977).

11.7 NONCONFORMING LOTS WITH EXISTING STRUCTURES

Conforming structures existing at the time of the adoption or amendment of this Ordinance may be continued although the lot area and/or width does not conform to the requirements of this Ordinance. Additions and enlargements to such structures are permitted provided they conform to all other Ordinance regulations other than lot requirements. Conforming structures damaged or destroyed by violent wind, vandalism, fire, ice, snow, mold, infestation, the public enemy or other calamity may be reconstructed provided they conform to other Ordinance regulations.

SECTION 12.0 CHANGES AND AMENDMENTS

12.1 AUTHORITY

Whenever the public necessity, convenience, general welfare, or good zoning practice require, the Town Board may, by ordinance, change the district boundaries or amend, change or supplement the regulations established by the text of this ordinance or amendments thereto. Such change or amendment shall be subject to the review and recommendation of the Planning & Zoning Commission. Any comprehensive Ordinance revision requires certification by the Wisconsin Land and Water Conservation Board.

12.2 INITIATION

A change or amendment may be initiated by the Town Board, the Planning & Zoning Commission, or by a petition of one or more of the owners of property proposed to be changed.

12.3 APPLICATIONS FOR AMENDMENT

Applications for an amendment to the text of this Ordinance or to district boundaries on the "Official Zoning Map" shall be filed with the Town Clerk/Treasurer or Zoning Administrator/Building Inspector. The application shall include:

- A. **A map** using copy of the final certified survey map, subdivision plat, condominium plat, plat of survey, or aliquot part of the Section indicating the land parcel(s) location and dimensions. The map shall use the lot lines of land parcel(s) in proposing the new zoning district; provide the location, current zoning, and owner names of land parcels within one thousand (1,000) feet of the parcel boundaries proposed to be rezoned.
- B. **The Town's Zoning Change Application Form** shall: be completely filled out, list the owner of the parcel(s) as the applicant for the zoning change, reasons for the proposed change, current zoning district assigned, the proposed zoning district being requested, and whether or not the proposed zoning is consistent with the Land Use Plan.
- C. **The Owners' Names and Addresses** of all the properties lying within one thousand (1,000) feet of the parcel proposed to be rezoned.

- D. **Additional Information** required by the Planning & Zoning Planning & Zoning Commission, or Town Board.
- E. **Fee Receipt** from the Town Clerk/Treasurer in the amount to be determined by the Town Board by Resolution.

12.4 RECOMMENDATIONS

The Planning & Zoning Commission shall hold a Public Hearing and review all proposed changes and amendments and shall recommend that the application be granted as requested, modified, or denied. The recommendation of the Planning & Zoning Commission shall be made no later than the second meeting after the meeting at which the application was first submitted. The application shall be considered with a Public Hearing at the next Town Board meeting.

12.5 STANDARDS FOR ZONING CHANGES

The following land use decision standards shall be used by the Planning & Zoning Commission and Town Board when considering proposed zoning changes. The Town may approve petitions for rezoning only after consistent findings are made based on the following:

- A. Whether the proposed change is consistent with the Town's Land Use Plan.
- B. Whether the proposed change is consistent with the Purpose and Intent Section of the new zoning district.
- C. Wisconsin Case Law relating to the proposed change.
- D. Whether adequate public facilities are available or can be made available to accommodate the proposed use within a reasonable time.
- E. Whether public facilities needed to accommodate the proposed use will place an unreasonable burden on the ability of affected units of government and school districts to provide them.
- F. The land proposed for rezoning is suitable for development and development will not result in undue water and air pollution, cause unreasonable soil erosion or have an unreasonable adverse effect on rare or irreplaceable natural resources.
- G. The protection of property values and the property tax base.

- H. Amount of daily and peak-hour traffic that will be generated, related to site size, and existing automobile traffic on the existing road network.
- I. Amount of daily and peak hour traffic that will be generated relative to existing and anticipated traffic from other land uses affecting the existing and planned road network.
- J. Expected composition of site-generated traffic by vehicle types
- K. Safety and convenience to future users.
- L. Access to commercial areas.
- M. Relation to aesthetic, scenic and recreation values.
- N. Rezoning areas zoned for exclusive agricultural use shall also consider the following:
 - 1. Shall not adversely affect the sustainability of the agricultural economy.
 - 2. Rural Residential density exceeding .9 dwelling units per acre shall be directed to areas with urban services.
 - 3. No subdivisions shall be approved in Exclusive Agricultural Land.
 - 4. The Town Board shall document that items (D), (E), and (F) were considered by providing their findings on each of these issues in writing to the Department of Agriculture, Trade and Consumer Protection along with notification of any land zoned out this district. This shall be accomplished by:
 - a) The Town Clerk/Treasurer providing an approved copy of the zoning change and findings approved by the Town Board, to the Rock County Planning and Development Agency.
 - b) The County Planning and Development Agency will assign the zoning change to the respective land parcel on the Official Town Zoning Map.
 - c) The Planning and Development Agency shall notify the Department of Agriculture, Trade and Consumer Protection of all zoning changes and conditional use permits, approved in this district, on a monthly basis when the land division map is finalized, as part of the Administration of the Farmland Preservation Program.

12.6 PUBLIC HEARING

The Town Clerk/Treasurer or Zoning Administrator/Building Inspector shall give a Class II Legal Notice under Chapter 985 [Publication of Legal Notices; Public Newspapers; Fees] of the Wisconsin Statutes. The Notice of such public hearing shall specify the time, place, and the changes or amendments proposed. The Planning & Zoning Commission and Town Board shall each hold a public hearing upon each proposed change or amendment. The Town Board shall also give at least ten (10) days prior written notice to the Clerk of any municipality within one thousand (1000) feet of any land to be affected by the proposed change or amendment.

12.7 TOWN BOARD'S ACTION

Following such hearing and after careful consideration of the Planning & Zoning Commission recommendations, the Town Board shall vote on the proposed change or amendment. A majority of the Town Board members present at the meeting is required to approve the amendment.

12.8 PROTEST TO PROPOSED CHANGE OR AMENDMENT

A proposed change or amendment to the town zoning ordinance must be adopted by not less than a two-thirds vote of the Town Board if a protest against the proposed change or amendment is presented prior to or at the public hearings under Section 12.6 of this Ordinance and:

- A. The protest is signed and acknowledged by the owners of at least 50% of the areas proposed to be altered; or
- B. The protest is signed and acknowledged by the abutting owners of at least 50% of the total perimeter of the area proposed to be altered that is included within 300 feet of the parcel or parcels to be rezoned.

12.9 REVERSION TO PREVIOUS ZONING DISTRICT

When a land owner requests a parcel to be rezoned from the original zoning district assigned when this Ordinance was adopted, and the owner has not established a permitted or conditional use as provided in the district within 12 months of the date of the Town Board's zoning action, the zoning district assigned to the land parcel shall automatically revert to the original zoning district that had been assigned when this ordinance became effective.

12.10 AIRPORT AFFECTED AREA AMENDMENT

A proposed amendment, supplement or change to this zoning ordinance must be adopted by not less than a two-thirds vote of the Town Board if the proposed amendment, supplement or change would make any change in an airport affected area, as defined under Section 62.23(6)(am)1.b. ["Airport Affected Area" within three (3) miles of the boundaries of an airport] of the Wisconsin Statutes and if a protest against the proposed revision is presented prior to or at the public hearings under Section 12.6 of this Zoning Ordinance by the owner or operator of the airport bordered by the airport affected area.

SECTION 13.0 PERFORMANCE STANDARDS

13.1 COMPLIANCE

This Ordinance permits specific uses in specific districts; and these performance standards are designed to limit, restrict, and prohibit the effects of those uses outside their premises or district. No structure, land, or water shall hereafter be used except in compliance with their district regulations and with the following performance standards.

13.2 AIR POLLUTION

No activity shall emit any fly ash, dust, fumes, vapors, mists, or gases in such quantities as to cause soiling or danger to the health of persons, animals, vegetation, or other forms of property. No activity shall emit any liquid or solid particles in concentrations exceeding 0.3 grains per cubic foot of the conveying gas nor any color visible smoke equal to or darker than No. 2 on the Ringelmann Smoke Chart described in the United States Bureau of Mine's Information Circular 7718.

13.3 FIRE AND EXPLOSIVE HAZARDS

All activities involving the manufacturing, utilization, processing, or storage of flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate fire-fighting and fire-suppression equipment and devices that are standard in the industry. All materials that range from active to intense burning shall be manufactured, utilized, processed, and stored only in completely enclosed buildings which have incombustible exterior walls and an automatic fire extinguishing system. The aboveground storage capacity of materials that produce flammable or explosive vapors shall not exceed the following:

<u>Closed Cup Flash Point</u>	<u>Gallons</u>
Over 187 Degrees F.	400,000
105 Degrees F. to 187 Degrees	200,000
Below 105 Degrees F.	100,000

13.4 GLARE AND HEAT

No activity shall emit glare or heat that is visible or measurable outside its premises. All operations producing intense glare or heat shall be conducted within a completely enclosed building. Exposed sources of light shall be shielded so as not to be visible outside their premises.

13.5 LIQUID OR SOLID WASTES

No activity shall discharge at any point onto any land or into any water or public sewer any materials of such nature, quantity, noxiousness, toxicity, or temperature which can contaminate, pollute, or harm the quantity or quality of any water supply, can cause the emission of dangerous or offensive elements, can overload the existing municipal utilities, or can injure or damage persons or property.

13.6 NOISE

No activity shall produce a sound level outside District boundaries that exceeds the following sound level measured by a sound level meter and associated octave band filter:

<u>Octave Band Frequency (Cycles Per Second)</u>	<u>Sound Level (Decibels)</u>
0 to 75	79
75 to 150	74
150 to 300	66
300 to 600	59
600 to 1200	53
1200 to 2400	47
2400 to 4800	41
Above 4800	39

No other activity in any other district shall produce a sound level outside its premises that exceeds the following:

<u>Octave Band Frequency (Cycles Per Second)</u>	<u>Sound Level (Decibels)</u>
0 to 75	72
75 to 150	67
150 to 300	59
300 to 600	52
600 to 1200	46
1200 to 2400	40
2400 to 4800	34
Above 4800	32

All noise shall be so muffled or otherwise controlled as not to become objectionable due to intermittence, duration, beat frequency, impulse character, periodic character or shrillness.

13.7 ODORS

No activity shall emit any odorous matter of such nature or quantity as to be offensive, obnoxious, or unhealthful outside its premises. Agriculture odors associated with normal agricultural activities are exempt from this ordinance.

13.8 RADIOACTIVITY AND ELECTRICAL DISTURBANCES

No activity shall emit radioactivity or electrical disturbances outside its premises that are dangerous or adversely affect the use of neighboring premises.

13.9 VIBRATION

No activity in any district shall emit vibrations, which are discernible without instruments outside its premises. No activity in any District shall emit vibrations which exceed the following displacement measured with a three-component measuring system:

<u>Frequency (Cycles Per Second)</u>	<u>Outside the Premises</u>	<u>Outside the District</u>
0 to 10	.0020	.0001
10 to 20	.0010	.0002
20 to 30	.0006	.0001
30 to 40	.0004	.0001
40 to 50	.0003	.0001
50 and over	.0002	.0001

13.10 WATER QUALITY PROTECTION

- A. No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity or temperature that would be likely to run off, seep, percolate or wash into surface or subsurface waters so as to contaminate, pollute, or harm such waters or cause nuisances such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.

- B. In addition, no activity shall discharge any liquid, gaseous, or solid materials so as to exceed or contribute toward the exceeding of the minimum standards and any other standards and the application of those standards set forth in Wisconsin Administrative Code Chapter NR102 [Water Quality Standards For Wisconsin Surface Waters] for all navigable waters and Chapters NR140 [Groundwater Quality], NR141[Groundwater Monitoring Well Requirements] and NR809 [Safe Drinking Water] and applicable Federal drinking water regulations.

SECTION 14.0 SIGNS

14.1 PURPOSE AND INTENT

The purpose of this Section is to establish standards for the fabrication, erection and use of signs and to regulate the location, type, size and height of signage within the Town of Magnolia. The Town Board and Planning and Zoning Commission find the regulation of signs serves the following compelling governmental interests:

- A. Promote the public welfare, health and safety of all persons using public roads and rights of way from unsafe traffic and visibility conditions caused by faulty and uncontrolled construction of signs creating distractions, obstructions and hazards.
- B. Preserve the value of private property by assuring compatibility of signs with surrounding land uses.
- C. Preserve the aesthetic character of the rural landscape.

14.2 SIGNS ALLOWED IN ALL DISTRICTS

The following signs are allowed in all zoning districts subject to the following regulations.

- A. **Signs Over Show Windows or Doors** of a nonconforming business establishment announcing without display or elaboration only the name and occupation of the proprietor, not to exceed two feet in height and eight feet in length.
- B. **Agricultural Signs** pertaining to the sale of agricultural products on a farm, membership in agricultural or agricultural-related organizations or a farmstead identification sign. Up to two signs with each sign face totaling not more than four feet in height and eight feet in length.
- C. **Real Estate Signs** not to exceed four feet in height and four feet in length in display area which advertise the sale, rental, or lease of the premises upon which said signs are temporarily located.
- D. **Name, Occupation, Home Office, Home Occupation Signs** shall not exceed two (2) square feet in display area located on the premises, and limited to one sign per land parcel.
- E. **Bulletin Boards** of public, charitable, or religious institutions not to exceed thirty two (32) square feet in display area located on the premises.

- F. **Memorial Signs**, tablets, name of buildings, and date of erection when cut into any masonry surface or when constructed of metal and affixed flat against a structure.
- G. **Official Signs**, such as traffic control, parking restrictions, information, and notices.
- H. **Political Signs** – Signs for political candidates which shall not exceed thirty two (32) square feet. Political signs shall not be placed in the road right-of-way. Political signs shall not be setup prior to thirty (30) days before election day and removed within five (5) days after election day.
- I. **Institutional Information** – Sign typically providing information to the community regarding scheduled public events, public activities and public facilities.
- J. **Temporary Signs or Banners**, when authorized by the Planning & Zoning Commission for no more than 90 days.

14.3 PROHIBITED SIGNS

- A. **Electronic Message Sign** A type of sign that displays words, lines, logos, graphic images or symbols which may be changed electronically to provide different information and moving displays. No electronic Message Sign shall be located within 500 feet of a parcel with a residence.

- B. **Off-Premise Advertising Signs**

Off-Premise Advertising Signs which direct attention to a business commodity, service or entertainment that is conducted, sold or offered elsewhere than upon the site where the sign is displayed. Off-Premise Advertising Signs include billboards.

- C. **Advertising Vehicle Sign**

A vehicle, trailer or other piece of equipment which contains any sign or advertising device, which is unlicensed and/or inoperable and which is parked on a public right-of-way or in a location that is not an active work site so as to be seen from a public right-of-way.

1. A business vehicle parked on-site at the place of business or legally parked on-site at the residence of an employee shall not be considered an Advertising Vehicle Sign.

D. **Beacon/Search Beacon Sign**

Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same site as the light source: also, any light with one or more beams that rotate or move.

E. **Abandoned Sign**

Any sign remaining in place on a site or portion of a site that has been vacant, closed or otherwise unoccupied for a period of 90 days.

14.4 TRAFFIC SIGN

Signs shall not resemble, imitate, or approximate the shape, size, form, or color of railroad or traffic signs, signals, or devices. Signs shall not obstruct or interfere with the effectiveness of railroad or traffic signs, signals, or devices. No sign shall be erected, relocated, or maintained so as to prevent free ingress to or egress from any door, window, or fire escape; and no sign shall be attached to a standpipe or interfere with traffic visibility nor be lighted in such a way as to cause glare or impair driver visibility upon public ways.

14.5 EXISTING SIGNS

Signs lawfully existing at the time of the adoption or amendment of this Ordinance may be continued although the use, size, or location does not conform to the provisions of this Ordinance. However it shall be considered a nonconforming use or structure and the provisions of Section 11.0 shall apply.

14.6 LIGHTING OF SIGNS

Illuminated signs are permitted when the lighting is one sustained impulse. No blinking lights or group of lights shall be allowed as part of a sign after the effective date of this ordinance.

14.7 ROOF-MOUNTED SIGNS

Signs erected on the roof of a building shall be prohibited by this ordinance.

14.8 AREAS OF SPECIAL CONTROL

Areas of special control may be designated by the Town Board. In such areas, the Town Board may establish special regulations for signs, which may be more or less restrictive than this section. The areas of special control shall be as follows:

- A. Architectural, historic, or scenic areas whose special and unique characteristics or whose natural beauty requires special sign regulations to insure that all signs used within the area are compatible with each other and with the area.
- B. Integrated centers of intensive business areas over 5 acres whose character indicates that signs should be permitted under regulations which are different from those which would otherwise be applicable under this ordinance.

SECTION 15.0 DEFINITIONS

15.1 USAGE

- A. For the purpose of these regulations, certain numbers, abbreviations, terms, and words used herein shall be used, interpreted, and defined as set forth in this section.
- B. Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the plural number include the singular; the word "herein" means "in these regulations"; the word "regulations" means "these regulations."
- C. A "person" includes a corporation, a partnership, and an incorporated association of persons such as a club; "shall" is always mandatory; a "building" includes a "structure"; a "building" or "structure" includes any part thereof; "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied."
- D. Any words not defined herein shall be presumed to have their customary dictionary definitions as provided by the most recent edition of Webster's Collegiate Dictionary.

15.2 WORDS AND TERMS DEFINED

Accessory Building: Any building except the principal structure on a parcel. In the case of a house and detached garage on a parcel, the accessory building is the garage or an outbuilding.

Accessory Use: Minor land uses or secondary uses directly supported by the principal or permitted use (i.e. a detached garage is an incidental use to a residential structure).

Agricultural Use: Means any of the following activities conducted for the purpose of producing an income or livelihood:

- A. Crop or forage production
- B. Keeping livestock
- C. Beekeeping
- D. Nursery, sod, Christmas tree production
- E. Floriculture
- F. Aquaculture
- G. Fur farming
- H. Forest management

- I. Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural conservation payment program

Any other use that the Wisconsin Department of Agriculture, Trade and Consumer Protection Department, by rule, identifies as an agricultural use.

Agricultural Accessory Use:

- A. A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use.
- B. An activity or business operation that is an integral part of, or incidental to, an agricultural use.
- C. A farm residence.
- D. A business, activity, or enterprise, whether or not associated with an agricultural use that is conducted by the owner or operator of a farm, that requires no buildings, structures or improvements other than those existing as permitted, accessory or conditional use, that employs no more than 4 full-time employees annually and that does not impair or limit the current or future agricultural use of the farm or other protected farmland.
- E. Any other use that the Wisconsin Department of Agriculture, Trade and Consumer Protection, by rule, identifies as an accessory use.

Agricultural-Related Use:

- A. An agricultural equipment dealership, facility providing agricultural supplies, facility for storing or processing agricultural products, or facility for processing agricultural wastes.
- B. Any other use that the Wisconsin Department of Agriculture, Trade and Consumer Protection, by rule, identifies as an agricultural-related use.

Airport Not Open to the Public: Any airport on privately owned land used solely by the property owner.

Airport Open to the Public: Any airport, whether publicly or privately owned, which is open for use by the general public without the necessity of obtaining prior use approval.

Alley: A lane, street, or thoroughfare affording secondary access to abutting properties.

Animal Unit: “Animal Unit” means a unit of measure used to determine the total number of single animal types or combination of animal types, as specified in s. NR 243.11 [Large Concentrated Feeding Operations] of the Wisconsin Administrative Code.

Applicant: The owner of the land or his or her representative who has the written consent of the legal owner of the land parcel to apply for Building Permit, Conditional Use Permit, Zoning Change, or appeal to the Board of Appeals.

Arterial Highways: Serve inter-community travel within and outside the area and provide a high level of urban mobility with little variation in operating conditions and form a continuous system with other arterials as indicated on the Rock County Functional Highway Classification Map.

Automotive Vehicle: A vehicle that is self-propelled, except a snowmobile.

Basement: A story partly underground.

Bond: Any form of security including cash deposit, surety bond, collateral, letter of credit, property, or instrument of credit in the amount and form satisfactory to governing body. All bonds shall be approved by the Town Board wherever a bond is required by these regulations.

Building: Any structure used, designed or intended for the protection, shelter, enclosure or support of persons, animals or property.

Building Area: Total ground coverage in square feet of all buildings and structures including garages, carports, and other attached or accessory structures.

Building Height: The vertical distance from the top of the building roof to the top of the basement or to the foundation whichever is less.

Certified Survey Map: A division of a lot, parcel, or tract of land by the owner thereof or his agent, for the purpose of sale or building development where the act of division creates not more than four (4) parcels of land.

Collector Highways: Provide access between local roads and adjacent land to and from arterial highways. Collectors provide mobility to the highway network as indicated on the Rock County Functional Highway Map.

Commission: The Planning & Zoning Commission.

Common Area: An area or space designed for joint use of tenants or owners residing in a Planned Unit Development or Condominium Development.

Community: A legal entity organized under appropriate statutory authority as a body corporate which represents a town, village, city, or county under Wisconsin Law.

Community Living Arrangement: Any of the following facilities licensed or operated, or permitted under the authority of the Wisconsin Department of Health and Social Services: group foster homes for children under Section 48.02(7), child welfare agencies under Section 48.60, and community-based residential facilities under Section 50.01 of the Wisconsin Statutes; but does not include day care centers, nursing homes, general hospitals, special hospitals, prisons and jails.

Conditional Use: A use allowed under this ordinance, provided that certain conditions are met, and a Conditional Use Permit is granted by the Town Board. (See Chapter 5.)

Condominium: Property subject to a condominium declaration established under Chapter 703 [Condominium Ownership Act] of the Wisconsin Statutes.

DATCP: The Wisconsin Department of Agriculture, Trade and Consumer Protection

Density: The number of dwelling units per acre allowable under a schedule of district regulations.

Developer: The owner of land proposed for development or his or her representative with written consent to submit an application under this Ordinance (see applicant).

Driveway: A minor private way used by vehicles and pedestrians for common access to a lot, small group of lots, or facilities.

Earthwork: The moving of more than 2 cubic yards of any type of soil.

Easement: Authorization by a property owner for the use of any designated part of his property by another and for a specified purpose.

Emergency Shelter: Public or private enclosures designed to protect people from flood, windstorm, fire, riots or invasions; and from aerial, radiological, biological, or chemical warfare.

Essential Services: Services provided by public and private utilities necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface or overhead gas, electricity, steam, water, sanitary sewerage, storm water, drainage, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call

boxes, traffic signals, pumps, lift stations, and hydrants, but does not include buildings.

Existing Farmstead or Farm Buildings: The residential structure for the land owner, barn, silo, machine shed, pole barn, outbuildings, and/or milk house existing at the time of the adoption of this ordinance.

Family: A group of persons related by blood or marriage and living together as a single housekeeping entity.

Farm: All land under common ownership that is primarily devoted to agricultural use as defined in each zoning district. For purposes of this definition, land is deemed to be primarily devoted to agricultural use if any of the following apply:

- A. The land produces at least six thousand dollars (\$6,000) in annual gross farm revenues to its owner or renter, regardless of whether a majority of the land area is in agricultural use.
- B. Majority of the land areas are in agricultural use.
- C. In determining whether land is in agricultural use herein, the Town may consider how the land is classified for property tax purposes.

Farm Consolidation: Farm consolidation is any combination of two or more farms that results in a smaller number of farms.

Farm Residence: Any of the following located on a farm:

- A. A single family residence that is the only residential structure on the farm.
- B. A single family or duplex residence that is occupied by any of the following:
 - 1. An owner or operator of the farm.
 - 2. A parent or child of an owner or operator of the farm.
 - 3. An individual who earned more than fifty-percent (50%) of his or her gross income from the farm.
- C. A migrant labor camp that is certified under section 103.92, Wis. Stats.

Field Road: A road used only for agricultural purposes.

Floodplain: The land adjacent to a body of water that is subject to periodic overflows therefrom.

Floodway: The channel of a stream and such adjacent portions of the floodplain as are required to accommodate flood flows.

Frontage: The side of a lot abutting on a street or way and ordinarily regarded as the front of the lot, but it shall not be considered as the ordinary side of a corner lot.

Garage: Any building or premises, other than a public or business storage garage, where motor vehicles are stored. For setback purposes, a detached garage is an accessory building.

Gross Farm Revenue: Gross receipts from agricultural uses, less the costs for other basis of livestock or other agricultural items purchased for resale which are sold or otherwise disposed of during the taxable year. Gross farm revenue includes receipts accruing to a renter but does not include rent paid to the land owner.

High Density: Those residential zoning districts in which the density is greater than one dwelling unit per 8,500 square feet.

Highland Conservancy Overlay District Soils: The following soils types, as found in the *Soil Survey of Rock County, Wisconsin* published by the United States Department of Agriculture Soil Conservation Service, are included in the Highland Overlay District:

DuC2; DuB2; DuA; KeA; KdC2; KdB; JuA; JaB; JaA; HeA; GrD2; GrC2; GrB2; GrA, FIB; PIA, PmB; PmA; PIC2; PIB; PeC2; PeB2; PeA; OsC2; OsB; OsA; OgB; OgA; KeC2; KeB2; TrA; TrA; WaA; WaB; WaC2; WeA; WeB; WeC2; WfA; WfB2; WfC2; WnA; WnB2; WnC2; WoA; Zua; ZuB; RnB2; RnC2; RpB; RpC2; RpD2; SaA; SaB; SbC2; SkA; SkB; SkC2; ZuC2; PnA; Pnb

Home Occupation: A Home Occupation includes the provision that no article is offered for sale on the premises except those produced by such occupation, and no off premise produced goods can be sold. A Home Occupation does not involve any external alteration that would affect the residential character of the building.

Household: The body of persons who live together in one dwelling unit as a single housekeeping unit.

Land Division: The division of a tract or interest in real property by the owner thereof for the purpose of sale or building development which creates: one or more lots, parcels, ownership units, or the need for a public land dedication.

Land Use Plan: The Town Land Use Plan indicating where future residential, commercial, agricultural, development should be located. The Land Use Plan is adopted by the Town and the County as provided in Sections 59.69(3) [County

Development Plan] and 60.62(2) [Town zoning authority if exercising village powers] of the Wisconsin Statutes.

License: A written license issued by the municipality allowing a person to operate and maintain a family farm business or mobile home park under the provisions of this Ordinance and regulations issued hereunder.

Livestock Facility: A feedlot or facility, other than a pasture, where animals used in the production of food, fiber, or other animal products are or will be fed, confined, maintained, or stabled for a total of 45 days or more in any 12--month period. "Livestock facility" does not include an aquaculture facility. A building or other structure used to house or feed livestock, to confine livestock for milking, to confine livestock for feeding other than grazing, to store livestock feed, or to collect or store waste generated at a livestock facility. "Livestock structure" includes a barn, milking parlor, feed storage facility, feeding facility, animal lot or waste storage facility. "Livestock structure" does not include a pasture or winter grazing area, a fence surrounding a pasture or winter grazing area, a livestock watering or feeding facility in a pasture or winter grazing area, or a machine shed or like facility that is not used for livestock.

Livestock: Farm animals kept and raised for use, pleasure, or profit.

Livestock structure: A building or structure such as a barn, milking parlor, feed storage facility, feeding facility, animal lot or waste storage structure. Pastures, winter grazing areas and machine sheds are not livestock structures.

Loading Area: A completely off-street space or berth on a lot for the loading or unloading of freight carriers, having adequate ingress and egress to a public street or alley.

Local Roads: Roads whose function is primarily to provide direct access to adjacent land, provide for short distance travel within the area, and provide access to the collector and arterial highways as part of an area highway network as shown on the Town of Magnolia Functional Jurisdiction Map.

Lot: A parcel of land described in a recorded plat or deed.

Lot Area: The total area reserved for exclusive use of the owners of a particular piece of real property.

Lot, Corner: A lot abutting on two or more streets at their intersection.

Lot Lines and Area: The peripheral boundaries of a parcel of land and the total area lying within such boundaries.

Lot Depth: The mean horizontal distance between the front and rear lot lines.

Lot Width: The width of a parcel of land measured at the front of the specified roadside of the parcel.

Lowland Conservancy Overlay District Soils: The following soils types, as found in the *Soil Survey of Rock County, Wisconsin* published by the United States Department of Agriculture Soil Conservation Service, are included in the Lowland Overlay District:

Ad; Aw; AzA; BmA; Br; Co; Da; EIA; EmA; EoA; Ha; Ho; KaA; LkA; Ma; Mb; Mc; Md; Me; Mf; Na; Ot; Pa; Rs; Se; Wb; WcA

Low Density: Those residential zoning districts in which the density is more than 40,000 square feet per dwelling unit.

Manufactured Home: A structure, transportable in one or more sections, which in a traveling mode is 12 body feet or more in width or 40 body feet or more in length, or, when erected on site is 1000 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation and complies with the standards established under 42 UCS 5401 to 5425 of the United States Department of Housing and Urban Development's Uniform National Construction Standards.

Master Plan: A comprehensive plan for development of the local government, prepared and adopted by the local government, pursuant to state law.

Medium Density: Those residential zoning districts in which density is between 8,501 and 40,000 square feet per dwelling unit.

Minimum Floor Area Square Footage: The area within the exterior walls of a building which is usable as living quarters.

Minor Structure: Any small, movable accessory structure or constructions such as birdhouses, tool houses, pet houses, play equipment, arbors, and walls and fences under four (4) feet in height.

Mobile Home: A structure, transportable in one or more sections, which in a traveling mode is 8 body feet or more in width or 40 body feet or more in length, or, when erected on site is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation and complies with the standards established under 42 UCS 5401 to 5425 of the United States Department of Housing and Urban Development's Uniform National Construction Standards.

Mobile Home Lot: A parcel of land designed for the placement of a single mobile home and for the exclusive use of its occupants.

Mobile Home Park: A parcel of land under single ownership designed, maintained, intended or used for the purpose of providing a location and accommodations for two or more manufactured homes, including all buildings used or intended for use as part of the equipment thereof, whether or not a charge is made for the use of the manufactured home park or its facilities; except that a manufactured home subdivision shall not be deemed a manufactured home park.

Mobile Home Subdivision: A parcel of land subdivided into lots, each lot individually owned and utilized as the site for placement of a single manufactured home and its facilities.

Motel: A series of attached, semi-attached, or detached sleeping units for the accommodation of transient guests.

New livestock facility: A livestock facility that will be used as a livestock facility for the first time, or for the first time in at least 5 years. "New livestock facility" does not include an expanded livestock facility if any portion of that facility has been used as a livestock facility in the preceding 5 years.

Non-conforming Structure: A building or premises lawfully used, occupied, or erected at the time of the passage of this ordinance or amendment thereto, which does not conform to the regulations of this ordinance with respect to frontage, width, height, area, yard, parking, loading, distance requirements or other development regulations in this Ordinance.

Non-conforming Use: The use or occupancy of a building or premises, which is lawful at the time of the enactment of this ordinance or amendments thereto, but which use or occupancy does not conform to the provisions of this ordinance or any amendments thereto.

Nonfarm Residence: Any residence other than a farm residence.

Non-operational Motor Vehicle: A motor vehicle incapable of being moved under its own power. A motor vehicle shall not include a snowmobile or an all-terrain-vehicle.

Normal High Water Line: The shortest straight line at the waterfront end of a stream lot that lies wholly within the lot, provided that not less than 75 per cent of the length of such water line shall be on, or on the landward side of, the normal high watermark of such stream.

NRCS: Natural Resources Conservation Service of the U.S. Department of Agriculture

Off Premises Sign: Privately owned signs which are located on leased property.

Ordinance: Any legislative action, however nominated, of a local government which has the force of law, including any amendment or repeal of any ordinance.

Owner: Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land.

Paddock: A permanently fenced pasture subdivision.

Park Management: The person who owns or has charge, care or control of mobile home park or travel trailer park.

Pedestal Sign: Pedestal Sign (pole sign) means any sign that is supported by structures or supports, in or on the ground, and is independent of support from any building.

Permit: A written building permit or certification issued by the Zoning Administrator permitting the construction, alteration and/or extension of a building under the provisions of this Ordinance.

Permittee: Any person to whom a permit is issued under this Ordinance.

Permitted Use: Uses listed under this heading are permitted as of right. This means that an applicant for a building permit shall be given a permit if he meets the other requirements of the ordinance, e.g., yards, setbacks, and so forth.

Person: Any individual, firm, trust, partnership, public or private association or corporation.

Planned Unit Development (PUD): An area with a minimum number of contiguous acres to be developed as a single entity, according to a plan. The PUD contains one or more residential lot clusters in combination with one or more commonly owned open space areas, or one or more commercial areas in combination with one or more commonly owned open space areas. The minimum setback lines may be relaxed and minimum square footage of the lot found in the respective zoning district can be partly located in the lot with the remainder located as commonly owned open space, all at the discretion of the Commission. The establishment of a land owners association is required to hold title to the commonly owned open spaces, maintain quasi-public facilities, and pay common expenses.

Principal Structure: The building of primary importance or permitted use on a parcel of land, in contrast to those that are accessory or of secondary importance. In an agricultural district a barn for agricultural use or animal confinement buildings are considered a principal structure.

Professional Office: A Professional Office is the gainful provision of a service provided only by the immediate members of a household, within their place of residence. A professional office does not involve on premise sale of physical products or customer service on a regular basis.

Public Hearing Legal Notice: When a plan or zoning ordinance amendment, conditional use, or variance is ready for policy action by a Board, Planning & Zoning Commission - Wisconsin enabling legislation requires a Public Hearing prior to that policy action. It also requires the publication of a legal notice(s) in the local government's "official" newspaper, which includes identifying the matter of interest and the hearing: time, date, and place as provided in Chapter 985 [Publication of Legal Notices; Public Newspapers and Fees] of the Wisconsin Statutes.

- A. A "Class I Legal Notice" is the minimum required for a public hearing that needs to be held prior to policy action on a conditional use permit. One notice, needs to be published at least one week prior to the hearing.
- B. A "Class II Legal Notice" is the minimum required prior to the public hearing that needs to be held prior to policy action on a plan, ordinance, official (Plan or Zoning)map amendments, or variance. The notice needs to be published twice, once a week for two consecutive weeks, with the second publishing at least one week before the hearing.

Recreational Vehicle: Means a touring or recreational unit other than a primary housing unit designed to be either self-propelled or towed which does not exceed the minimum statutory size of a mobile home under Section 348.07 (2) of the Wisconsin Statutes [Vehicles – Size, Weight and Load]. Commonly referred to as a motor home, pop-up camper, fifth wheel recreation vehicle, or similar type of vehicle being equipped and used or intended to be used for temporary human habitation. A unit may or may not include plumbing, heating, and electrical systems or appliances.

Related Livestock Facilities: Livestock facilities that are owned or managed by the same person, and related to each other in at least one of the following ways:

- A. They are located on the same tax parcel or adjacent tax parcels of land.
- B. They use one or more of the same livestock structures to collect or store manure.

- C. At least a portion of their manure is applied to the same landspreading acreage.

Residence, Single-Family: A detached building designed for, or occupied exclusively by, one family or household.

Residence, Two-Family: A detached or semi-detached building designed and occupied by two families or households.

Residence, Multiple-Family: A building or portion thereof designed for, or occupied by, three or more families or households.

Road: All property dedicated, intended for public or private road purposes, or subject to public easements for road purposes.

Road Right-of-Way Line: The land between lots, land parcels, used for street, road, or highway purposes including, but not limited to the travel lanes, shoulder, ditches, and backslopes.

Separate Species Facility: A livestock facility that meets all of the following criteria:

- A. It has only one of the following types of livestock, and that type of livestock is not kept on any other livestock facility to which the separate species facility is related (see definition of a "related livestock facility"):
- Cattle
 - Swine
 - Poultry
 - Sheep
 - Goats
- B. It has no more than 500 animal units.
- C. Its livestock housing and manure storage structures, if any, are separate from the livestock housing and manure storage structures used by livestock facilities to which it is related.
- D. It meets one of the following criteria:
1. Its livestock housing and manure storage structures, if any, are located at least 750 feet from the nearest livestock housing or manure storage structure used by a livestock facility to which it is related.
 2. It and the other livestock facilities to which it is related have a combined total of fewer than 1,000 animal units.

Service Building: A structure housing toilet, washing, and bathing facilities and such other facilities as may be required by this ordinance.

Setback: The minimum horizontal distance between the lot line and the nearest point of a building or any projection thereof, excluding uncovered steps.

Sign: A structure or device on which or advertising is displayed, or by which attention is directed to advertising on the same or any other structure, by any means visible to the eye. Sign means any surface, fabric, device or display which bears lettered, pictorial, projected images, logos, symbols, fixtures, colors, illumination or sculptured matter illuminated or non-illuminated which is visible from any public place. Also, which advertises, identifies, conveys information or directs attention to a product, service, place, activity, event, person, institution, business or solicitation, including any permanently installed or situated merchandise, or any emblem, placard or temporary sign. Signs shall also include all sign structures and component parts.

Standards: The setbacks, vision corners, sideline requirements, height limitations, square footage requirements and other specifications as required by this ordinance.

Story: That portion of a building included between the surface of the floor next above it or the space between the floor and the ceiling next above it, if there is no floor above it. A basement or cellar having one-half or more of its height above grade is a story for purposes of height regulation.

Street: All property dedicated, intended for public or private street purposes, or subject to public easements for road purposes.

Street Right-of-Way Line: The land between lots or land parcels used for street, road, or highway purposes including, but not limited to the travel lanes, shoulder, ditches, and terraces. The land parcel between a lot, tract or parcel of land and an abutting street.

Structure: Anything constructed or erected having location on the ground.

Structural Alteration: Any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams, or girders, or any substantial change in the roof structure or in the exterior or interior walls.

Structure, Single Family: A building designed for or occupied by, one family or household.

Structure, Two-Family: A detached or semi-detached building designed as two separate dwelling units and occupied by two families or households.

Subdivision Plat: Any division of a lot, parcel, or tract of land by the owner thereof or his agent for the purpose of sale or building development where:

- A. The act of division creates five (5) or more parcels, or building sites,
- B. Five or more parcels or building sites are created by successive divisions within a period of five years, or
- C. Where there is a dedication or reservation for public improvements.

Temporary Structure: A removable structure not designed for human occupancy and not for the protection of goods or property and not forming an enclosure.

Tenant Storage Area: An enclosed space designed to provide auxiliary general storage space for the occupants of an individual mobile home.

Trailer/Semi-Trailer: A separate vehicle, not driven or propelled by its own power, but drawn by some independent power. A trailer is a separate vehicle, which is not, driven or propelled by its own power but must be attached to and become part of another vehicle to be useful. If a semi-trailer is not driven, propelled, or drawn by some independent power, as it was originally designed to function for a period of seven days, it is no longer considered a semi-trailer. Unless it is licensed for farming and are used in agriculture production.

Trailer Space: A parcel of land in a travel trailer parking area for the placement of a single trailer and the exclusive use of its occupants.

Travel Trailer: A vehicular, portable unit designed as a temporary living unit for travel, recreation and vacation, which may take one of the following forms, or a similar form:

- A. A unit built on a chassis, having a body width not exceeding eight feet and body length not exceeding 32 feet;
- B. A unit designed to be mounted on a truck chassis;
- C. A unit constructed as an integral part of a self-propelled vehicle; or
- D. A canvas, folding unit mounted on wheels.

Travel Trailer Camp: A parcel of land in which two or more spaces are occupied, or intended for occupancy by travel trailers for transient dwelling purposes.

Unit: A part of a condominium intended for any type of independent use, including one or more cubicles of air at one or more levels of space or one or more rooms or enclosed spaces located on one or more floors (or parts thereof) in a building. A unit may include two (2) or more noncontiguous areas.

Use (Land Use): Residential, commercial, industrial, park and open space, conservation and agricultural activities carried out on a parcel of land. This may include seasonal land uses, which encompass the entire parcel of land as of the time of the adoption of the ordinance.

Use Consistent with Agricultural Use: means any activity that meets all the following conditions:

- A. The activity will not convert land that has been devoted primarily to agricultural use.
- B. The activity will not limit the surrounding land's potential for agricultural use.
- C. The activity will not conflict with agricultural operations and the land subject to a farmland preservation agreement.
- D. The activity will not conflict with agricultural operations on other properties.

Variance: Authority granted to the owner to use his or her property in a manner, which is prohibited by the zoning ordinance. A departure from the terms of the zoning ordinance where it is shown that unique physical circumstances applying to a land parcel causes a hardship to the owner, and that the condition permitted by the departure still will be in fundamental harmony with surrounding uses.

- A. **Area Variance:** Is one, which does not involve a use, which is prohibited by the zoning ordinance. Area variances involve matters such as setback lines, frontage requirements, height limitations, lot size restrictions, density, density regulations, and yard requirements.
- B. **Use Variance:** Is one, which permits a use of land other than that, which is prescribed by the zoning ordinance. It is primarily a grant to erect, alter or use a structure for a permitted use in a manner other than that prescribed by the ordinance. A Use Variance shall not be granted under this ordinance.

Wall Sign: Any sign that is parallel to and affixed to an exterior wall or side of a mansard roof of a building. Wall signs also include signs, which are parallel to the wall of a building and attached to the roof of a canopy.

Window Sign: Any sign placed inside or upon a window facing the outside, which is intended to be seen from the exterior of the building.

Yard: An open space on the same lot with a building, unoccupied and unobstructed from the ground upward except as otherwise provided herein.

Yard, Front: A yard extending the full width of the lot between the front lot line and the nearest part of the principal building, excluding uncovered steps.

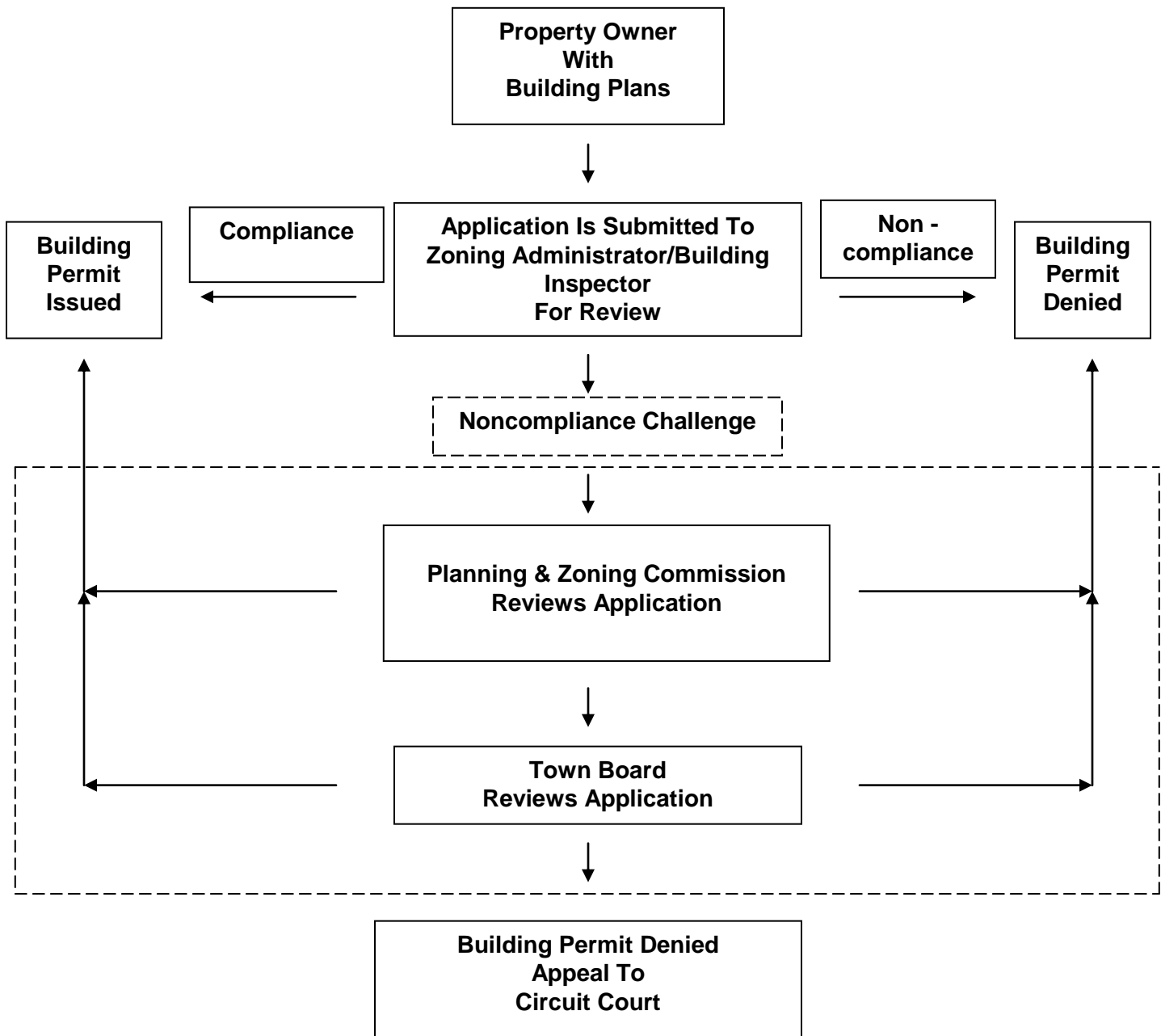
Yard, Rear: A yard extending the full width of the lot between the rear lot line and the nearest part of the principal building excluding only such projections as are permitted herein.

Yard, Side: A yard extending from the front yard, or from lot line, where no front yard is required, to the rear yard between side lot line and the nearest part of the principal building.

Appendix A
Conditional Use Permit Procedure (Section 5.0)



Building Permit Procedure (Section 6.0)



Zoning Change or Amendment Procedure (Section 12.0)

